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**STATUTES
OF
ONTARIO
2017**

Second Session,
Forty-First Legislature

66 Elizabeth II

Her Honour
Elizabeth Dowdeswell
Lieutenant Governor

**LOIS
DE
L'ONTARIO
2017**

Deuxième session
quarante et unième législature

66 Elizabeth II

Son Honneur
Elizabeth Dowdeswell
Lieutenante-gouverneure

VOLUME 2

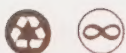
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**PART II
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(SORTED BY CHAPTER)**

Private Acts are almost always enacted in English only.

**PARTIE II
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(PAR NUMÉRO DE CHAPITRE)**

Les lois d'intérêt privé sont presque toujours édictées en anglais seulement.

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USER'S GUIDE

I. The Statutes of Ontario, 2017

The Statutes of Ontario, 2017 are published in two volumes. These volumes contain the public and private Acts enacted by the Ontario Legislature in 2017.

All public Acts are enacted in English and French. Private Acts may be enacted in English or in both English and French. Both versions of a bilingual Act are equally authoritative. The French version of an Act is set out immediately after the English version.

The statutes contained in this volume are also available on the e-Laws website at www.ontario.ca/laws under "Source Law".

II. Using the Statutes of Ontario, 2017

1. The Table of Contents

This table sets out all of the contents of the Statutes of Ontario, 2017. It is followed by a list sorted alphabetically by Act name and a list sorted numerically by chapter number in English and in French of the statutes enacted in 2017. The statutes are listed in two parts:

Part I – Public Acts

Part II – Private Acts

Each statute, when it was first introduced in the Legislative Assembly, was assigned a bill number. The bill number for each statute is given in the Table of Contents. A bill, when enacted, is assigned a chapter number. Chapter numbers are also given in the Table of Contents.

2. The User's Guide

This guide is intended to help readers of the Ontario statutes. Information contained in this guide was accurate as of December 31, 2017. We invite your comments for improvements.

Contact Information

Address:

The Office of Legislative Counsel
Room 3600, Whitney Block
Queen's Park
Toronto, Ontario, M7A 1A2

3. The Statutes of Ontario, 2017

The Statutes of Ontario, 2017 are arranged by chapter number. If you know the name of an Act, but not its chapter number, you should refer to the Table of Contents.

GUIDE D'UTILISATION

I. Les Lois de l'Ontario de 2017

Les Lois de l'Ontario de 2017 sont en deux volumes. Ces volumes contiennent les lois d'intérêt public et d'intérêt privé qu'a édictées la Législature de l'Ontario en 2017.

Les lois d'intérêt public sont édictées en français et en anglais. Les lois d'intérêt privé peuvent l'être en anglais seulement ou en anglais et en français. Les deux versions d'une loi bilingue ont également force de loi. La version française d'une loi figure juste après la version anglaise.

Les lois qui figurent dans ce volume peuvent également être consultées sur le site Web de Lois-en-ligne à www.ontario.ca/fr/lois sous «Textes sources».

II. Utilisation des Lois de l'Ontario de 2017

1. La table des matières

La table donne le plan des Lois de l'Ontario de 2017. Elle est suivie de listes qui énumèrent, par ordre alphabétique des titres de loi et par ordre numérique des chapitres, en anglais et en français, les lois édictées en 2017. Les lois sont divisées en deux parties :

Partie I – Lois d'intérêt public

Partie II – Lois d'intérêt privé

Chaque loi a reçu un numéro de projet de loi lors de son dépôt devant l'Assemblée législative. Ces numéros figurent dans la table des matières. Chaque projet de loi reçoit un numéro de chapitre lors de son édicition. Ces numéros sont également indiqués dans la table.

2. Le guide d'utilisation

Le guide a pour but de faciliter la consultation des lois de l'Ontario. Les renseignements qui y figurent étaient exacts le 31 décembre 2017. Veuillez nous faire parvenir toute remarque qui nous permettrait de l'améliorer à l'adresse suivante :

Coordonnées

Adresse :

Bureau des conseillers législatifs
Édifice Whitney, bureau 3600
Queen's Park
Toronto (Ontario) M7A 1A2

3. Les Lois de l'Ontario de 2017

Les Lois de l'Ontario de 2017 sont présentées selon leur numéro de chapitre. Prière de se reporter à la table des matières pour trouver une loi dont on connaît le titre, mais non le numéro de chapitre.

III. References to Statutes

Statutes are commonly referred to by their short titles (e.g. the *Ontario Loan Act, 2017*). A reference to a statute may also include its chapter number (e.g. the *Lebanese Heritage Month Act, 2017*, c. 27).

IV. Organization of a Statute

1. Sections, subsections, etc.

Every statute is composed of numbered sections, cited as sections 1, 2, 3, etc. Many sections are further divided into two or more subsections, cited as subsections (1), (2), (3), etc. Some sections and subsections also contain clauses (cited as clauses (a), (b), (c), etc.), subclauses (cited as subclauses (i), (ii), (iii), etc.), paragraphs (cited as paragraphs 1, 2, 3, etc.) and subparagraphs (cited as subparagraphs i, ii, iii, etc.). Further levels of divisions are possible, although they are uncommon.

Some statutes are divided into numbered Parts, cited as Part I, II, III, etc.

Most statutes contain a definition section that lists, in alphabetical order, definitions of terms used in the statute. The definition section is usually at the beginning of the statute, although definitions sometimes appear elsewhere. In a statute that is divided into parts, the first section of a part often contains definitions of terms used in that part.

The definition of an English term contains a reference to the corresponding French term and a definition of a French term contains a reference to the corresponding English term. In a few cases, a term that is given a statutory definition in one language is not given a statutory definition in the other language. This occurs if the ordinary meaning of the term in the other language requires no statutory variation.

Some statutes contain a table of contents at the beginning of the statute.

2. Preambles

Some statutes begin with a preamble. The preamble is part of the statute and may be used in its interpretation.

3. Headnotes, Headings, etc.

Headnotes, headings, the table of contents and legislative history information in the body of a statute do not form part of the statute and are included for convenience only.

V. Parent and Amending Acts

Some statutes are considered to be “parent” Acts. These statutes are free-standing and refer to other statutes only incidentally.

III. Renvoi aux lois

Les lois sont habituellement désignées par leur titre abrégé (la *Loi de 2017 sur les emprunts de l'Ontario*). Le renvoi à une loi peut comprendre son numéro de chapitre (la *Loi de 2017 sur le Mois du patrimoine libanais*, chap. 27).

IV. Division des lois

1. Articles, paragraphes, etc.

Chaque loi se compose d'articles numérotés : article 1, 2, 3, etc. Ces articles se divisent souvent en paragraphes : paragraphe (1), (2), (3), etc. Certains articles et paragraphes contiennent également des alinéas (alinéa a), b), c), etc.), des sous-alinéas (sous-alinéa (i), (ii), (iii), etc.), des dispositions (disposition 1, 2, 3, etc.) et des sous-dispositions (sous-disposition i, ii, iii, etc.). Des divisions plus poussées sont possibles mais rares.

Certaines lois sont également divisées en parties numérotées : partie I, II, III, etc.

La plupart des lois comportent un article qui énonce, par ordre alphabétique, la définition de certains termes utilisés dans le texte. Cet article est habituellement placé au début de la loi, bien que certaines définitions puissent figurer ailleurs dans le texte. Dans une loi divisée en parties, le premier article de ces parties contient souvent la définition de termes qui y sont utilisés.

La définition d'un terme français se termine par le renvoi au terme anglais correspondant et vice versa. Il arrive parfois qu'un terme ne soit défini que dans une langue lorsque, en raison de son sens courant dans l'autre langue, il n'a pas besoin d'y être défini par voie législative.

Certaines lois contiennent un sommaire, placé au début du texte.

2. Préambules

Il arrive qu'une loi commence par un préambule. Celui-ci fait partie de la loi et peut servir à son interprétation.

3. Notes descriptives, intertitres et renseignements divers

Les notes descriptives, les intertitres, le sommaire et les renseignements concernant l'historique qui figurent dans une loi n'en font pas partie et ne servent qu'à faciliter la consultation.

V. Lois modificatives

Certaines lois sont autonomes et ne renvoient que rarement à d'autres lois.

Other statutes amend parent Acts. The provisions of an amending statute itself, printed in bold-face type, show which amendments are to be made to the parent Act.

Where a provision of the parent Act is replaced with a new provision, that new provision, with its provision numbering in the parent Act, is printed in light-face type.

VI. Amendments

To determine if a public Act has been amended, you may refer to the legislative tables available on the e-Laws website, at www.ontario.ca/laws, or to the consolidation of the Act available on the e-Laws website.

VII. Legislation Act, 2006

Readers of the statutes of Ontario should be aware of the *Legislation Act, 2006*, which contains a number of provisions that apply to the interpretation of all statutes. For example, Part VI of the Act contains definitions that apply to words and phrases used in all statutes, unless a contrary intention appears or the meaning would be inconsistent with the context. It also contains provisions that apply when a statute is repealed and replaced by another statute or is amended.

VIII. Consolidations of Statutes

A consolidation of a statute (incorporating the amendments to the statute, whether or not they are yet in force) is very convenient to use. Consolidated public statutes are available on the e-Laws website at www.ontario.ca/laws. Under the *Legislation Act, 2006*, a copy of a consolidated law accessed from the e-Laws website is an official copy of that law for the period indicated on it.

IX. Legislative Tables

A number of tables are available on the e-Laws website, at www.ontario.ca/laws, to assist the reader in researching Ontario legislation (both statutes and regulations). Detailed descriptions of the contents of each table are also provided on the website. These tables include comprehensive lists of consolidated public statutes and regulations and amendments to them, information about proclamations and unproclaimed statutes, information relating to ministerial responsibility for public statutes and information about corrections, changes and repeals under the *Legislation Act, 2006*.

D'autres lois modifient des lois existantes. Les dispositions de la loi modificative, imprimées en caractères gras, indiquent les modifications qui doivent être apportées à la loi existante.

Lorsqu'une disposition de la loi existante est remplacée par une nouvelle disposition, celle-ci comporte la numérotation appropriée de la loi existante et est imprimée en caractères ordinaires dans la loi modificative.

VI. Modifications

Pour savoir si une loi d'intérêt public a été modifiée, on peut se reporter aux tables qui se trouvent sur le site Web de Lois-en-ligne à www.ontario.ca/fr/lois, ou à la codification de la loi disponible sur ce site.

VII. Loi de 2006 sur la législation

Prière de tenir compte de la *Loi de 2006 sur la législation*, dont certaines dispositions s'appliquent à l'interprétation de toutes les lois. Sa partie VI comporte, par exemple, des définitions qui s'appliquent aux termes et expressions utilisés dans les lois, sauf si une intention contraire est indiquée ou si le sens est incompatible avec le contexte. Certaines de ses dispositions s'appliquent également en cas d'abrogation et de remplacement ou de modification d'une loi.

VIII. Codifications des lois

Les codifications des lois (qui incorporent les modifications qui leur sont apportées, qu'elles soient ou non en vigueur) sont faciles à utiliser. Les lois d'intérêt public codifiées peuvent être consultées sur le site Web de Lois-en-ligne à www.ontario.ca/fr/lois. Aux termes de la *Loi de 2006 sur la législation*, une codification obtenue à partir du site Web Lois-en-ligne constitue la version officielle du texte codifié pour la période qui y est indiquée.

IX. Tables

Diverses tables sont disponibles sur le site Web de Lois-en-ligne, à www.ontario.ca/fr/lois, afin de faciliter les recherches dans la législation de l'Ontario (aussi bien les lois que les règlements). Chaque table est accompagnée d'une description détaillée de son contenu. Parmi ces tables figurent notamment les listes complètes des lois d'intérêt public et des règlements codifiés ainsi que leurs modifications, des renseignements sur les proclamations et sur les lois non proclamées, des renseignements relatifs à la responsabilité ministérielle quant à l'application des lois d'intérêt public ainsi que des renseignements relatifs aux corrections, modifications et abrogations effectuées en vertu de la *Loi de 2006 sur la législation*.

X. Other Laws

In addition to Ontario statutes, particular legal issues may be affected by other kinds of laws, including the Constitution of Canada, statutes of the Parliament of Canada, regulations, municipal by-laws and the common law.

XI. Electronic Access (e-Laws)

Ontario statutes and regulations are available on the e-Laws website at www.ontario.ca/laws.

XII. Other Electronic Resources

The reader may find the following Ontario websites useful:

Government of Ontario:
www.ontario.ca

Legislative Assembly of Ontario:
www.ontla.on.ca

Ontario Gazette:
www.ontario.ca/search/ontario-gazette

X. Autres sources de droit

Une question juridique donnée peut, outre les lois de l'Ontario, mettre en jeu d'autres sources de droit, notamment la Constitution du Canada, les lois du Parlement du Canada, les règlements, les règlements municipaux et la common law.

XI. Accès électronique (Lois-en-ligne)

Les lois et règlements de l'Ontario peuvent être consultés sur le site Web de Lois-en-ligne à www.ontario.ca/fr/lois.

XII. Autres ressources électroniques

Les sites Web ontariens suivants peuvent s'avérer utiles :

Assemblée législative de l'Ontario :
www.ontla.on.ca

Gazette de l'Ontario :
www.ontario.ca/fr/recherche/gazette-ontario

Gouvernement de l'Ontario :
www.ontario.ca

CHAPTER 14

An Act to enact the Child, Youth and Family Services Act, 2017, to amend and repeal the Child and Family Services Act and to make related amendments to other Acts

Assented to June 1, 2017

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Schedule 2	Amendments to the Child and Family Services Act
Schedule 3	Amendments to the Child, Youth and Family Services Act, 2017
Schedule 4	Amendments to Other Acts

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Supporting Children, Youth and Families Act, 2017*.

SCHEDULE 1
CHILD, YOUTH AND FAMILY SERVICES ACT, 2017

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Preamble

The Government of Ontario acknowledges that children are individuals with rights to be respected and voices to be heard.

The Government of Ontario is committed to the following principles:

Services provided to children and families should be child-centred.

Children and families have better outcomes when services build on their strengths. Prevention services, early intervention services and community support services build on a family's strengths and are invaluable in reducing the need for more disruptive services and interventions.

Services provided to children and families should respect their diversity and the principle of inclusion, consistent with the *Human Rights Code* and the *Canadian Charter of Rights and Freedoms*.

Systemic racism and the barriers it creates for children and families receiving services must continue to be addressed. All children should have the opportunity to meet their full potential. Awareness of systemic biases and racism and the need to address these barriers should inform the delivery of all services for children and families.

Services to children and families should, wherever possible, help maintain connections to their communities.

In furtherance of these principles, the Government of Ontario acknowledges that the aim of the *Child, Youth and Family Services Act, 2017* is to be consistent with and build upon the principles expressed in the United Nations Convention on the Rights of the Child.

With respect to First Nations, Inuit and Métis children, the Government of Ontario acknowledges the following:

The Province of Ontario has unique and evolving relationships with First Nations, Inuit and Métis peoples.

First Nations, Inuit and Métis peoples are constitutionally recognized peoples in Canada, with their own laws, and distinct cultural, political and historical ties to the Province of Ontario.

Where a First Nations, Inuk or Métis child is otherwise eligible to receive a service under this Act, an inter-jurisdictional or intra-jurisdictional dispute should not prevent the timely provision of that service, in accordance with Jordan's Principle.

The United Nations Declaration on the Rights of Indigenous Peoples recognizes the importance of belonging to a community or nation, in accordance with the traditions and customs of the community or nation concerned.

Further, the Government of Ontario believes the following:

First Nations, Inuit and Métis children should be happy, healthy, resilient, grounded in their cultures and languages and thriving as individuals and as members of their families, communities and nations.

Honouring the connection between First Nations, Inuit and Métis children and their distinct political and cultural communities is essential to helping them thrive and fostering their well-being.

For these reasons, the Government of Ontario is committed, in the spirit of reconciliation, to working with First Nations, Inuit and Métis peoples to help ensure that wherever possible, they care for their children in accordance with their distinct cultures, heritages and traditions.

PART I

PURPOSES AND INTERPRETATION

PURPOSES

Paramount purpose and other purposes

Paramount purpose

1 (1) The paramount purpose of this Act is to promote the best interests, protection and well-being of children.

Other purposes

(2) The additional purposes of this Act, so long as they are consistent with the best interests, protection and well-being of children, are to recognize the following:

1. While parents may need help in caring for their children, that help should give support to the autonomy and integrity of the family unit and, wherever possible, be provided on the basis of mutual consent.
2. The least disruptive course of action that is available and is appropriate in a particular case to help a child, including the provision of prevention services, early intervention services and community support services, should be considered.
3. Services to children and young persons should be provided in a manner that,
 - i. respects a child's or young person's need for continuity of care and for stable relationships within a family and cultural environment,
 - ii. takes into account physical, emotional, spiritual, mental and developmental needs and differences among children and young persons,
 - iii. takes into account a child's or young person's race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity and gender expression,
 - iv. takes into account a child's or young person's cultural and linguistic needs,
 - v. provides early assessment, planning and decision-making to achieve permanent plans for children and young persons in accordance with their best interests, and
 - vi. includes the participation of a child or young person, the child's or young person's parents and relatives and the members of the child's or young person's extended family and community, where appropriate.
4. Services to children and young persons and their families should be provided in a manner that respects regional differences, wherever possible.
5. Services to children and young persons and their families should be provided in a manner that builds on the strengths of the families, wherever possible.
6. First Nations, Inuit and Métis peoples should be entitled to provide, wherever possible, their own child and family services, and all services to First Nations, Inuit and Métis children and young persons and their families should be provided in a manner that recognizes their cultures, heritages, traditions, connection to their communities, and the concept of the extended family.
7. Appropriate sharing of information, including personal information, in order to plan for and provide services is essential for creating successful outcomes for children and families.

INTERPRETATION

Interpretation

Definitions

2 (1) In this Act,

"agency" means a corporation; ("agence")

"band" has the same meaning as in the *Indian Act* (Canada); ("bande")

"Board" means the Child and Family Services Review Board continued under section 333; ("Commission")

"child" means a person younger than 18; ("enfant")

"child in care" means a child or young person who is receiving residential care from a service provider and includes,

(a) a child who is in the care of a foster parent, and

(b) a young person who is,

(i) detained in a place of temporary detention under the *Youth Criminal Justice Act* (Canada),

(ii) committed to a place of secure or open custody designated under subsection 24.1 (1) of the *Young Offenders Act* (Canada), whether in accordance with section 88 of the *Youth Criminal Justice Act* (Canada) or otherwise, or

(iii) held in a place of open custody under section 150 of this Act; ("enfant recevant des soins", "enfant qui reçoit des soins")

"court" means the Ontario Court of Justice or the Family Court of the Superior Court of Justice; ("tribunal")

"creed" includes religion; ("croyance")

“customary care” means the care and supervision of a First Nations, Inuk or Métis child by a person who is not the child’s parent, according to the custom of the child’s band or First Nations, Inuit or Métis community; (“soins conformes aux traditions”)

“Director” means a Director appointed under subsection 53 (1); (“directeur”)

“extended family” means persons to whom a child is related, including through a spousal relationship or adoption and, in the case of a First Nations, Inuk or Métis child, includes any member of,

- (a) a band of which the child is a member,
- (b) a band with which the child identifies,
- (c) a First Nations, Inuit or Métis community of which the child is a member, and
- (d) a First Nations, Inuit or Métis community with which the child identifies; (“famille élargie”)

“First Nations, Inuit or Métis community” means a community listed by the Minister in a regulation made under section 68; (“communauté inuite, métisse ou de Premières Nations”)

“foster care” means the provision of residential care to a child, by and in the home of a person who,

- (a) receives compensation for caring for the child, except under the *Ontario Works Act, 1997* or the *Ontario Disability Support Program Act, 1997*, and
- (b) is not the child’s parent or a person with whom the child has been placed for adoption under Part VIII (Adoption and Adoption Licensing),

and “foster home” and “foster parent” have corresponding meanings: (“soins fournis par une famille d’accueil”, “famille d’accueil”, “parent de famille d’accueil”)

“licence” means a licence issued under Part VIII (Adoption and Adoption Licensing) or Part IX (Residential Licensing); a reference to a licence in Part VIII is to a licence issued under that Part and a reference to a licence in Part IX is to a licence issued under that Part; (“permis”)

“licensee” means the holder of a licence; (“titulaire de permis”)

“local director” means a local director appointed under section 38; (“directeur local”)

“mechanical restraints” means a device, material or equipment that reduces the ability of a person to move freely, and includes handcuffs, flex cuffs, leg irons, restraining belts, belly chains and linking chains; (“contentions mécaniques”)

“Minister” means the Minister of Children and Youth Services or such other member of the Executive Council as may be designated under the *Executive Council Act* to administer this Act; (“ministre”)

“Ministry” means the ministry of the Minister; (“ministère”)

“old Act” means the *Child and Family Services Act*; (“ancienne loi”)

“order” includes a refusal to make an order; (“arrêté, ordre et ordonnance”)

“personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)

“physical restraint” means a holding technique to restrict a person’s ability to move freely but, for greater certainty, does not include,

- (a) restricting movement, physical redirection or physical prompting, if the restriction, redirection or prompting is brief, gentle and part of a behaviour teaching program, or
- (b) the use of helmets, protective mitts or other equipment to prevent a person from physically injuring or further physically injuring themselves; (“contention physique”)

“place of open custody” means a place or facility designated as a place of open custody under subsection 24.1 (1) of the *Young Offenders Act* (Canada), whether in accordance with section 88 of the *Youth Criminal Justice Act* (Canada) or otherwise; (“lieu de garde en milieu ouvert”)

“place of open temporary detention” means a place of temporary detention in which the Minister has established an open detention program; (“lieu de détention provisoire en milieu ouvert”)

“place of secure custody” means a place or facility designated for the secure containment or restraint of young persons under subsection 24.1 (1) of the *Young Offenders Act* (Canada), whether in accordance with section 88 of the *Youth Criminal Justice Act* (Canada) or otherwise; (“lieu de garde en milieu fermé”)

“place of secure temporary detention” means a place of temporary detention in which the Minister has established a secure detention program; (“lieu de détention provisoire en milieu fermé”)

“place of temporary detention” means a place or facility designated as a place of temporary detention under the *Youth Criminal Justice Act* (Canada); (“lieu de détention provisoire”)

“prescribed” means prescribed by regulations; (“prescrit”)

“program supervisor” means a program supervisor appointed under subsection 53 (2); (“superviseur de programme”)

“provincial director” means,

- (a) a person, the group or class of persons or the body appointed or designated by the Lieutenant Governor in Council or the Lieutenant Governor in Council’s delegate to perform any of the duties or functions of a provincial director under the *Youth Criminal Justice Act* (Canada), or
- (b) a person appointed under clause 146 (1) (a); (“directeur provincial”)

“record” means a record of information in any form or in any medium, whether in written, printed, photographic or electronic form or otherwise, but does not include a computer program or other mechanism that can produce a record; (“dossier”)

“regulations” means the regulations made under this Act; (“règlements”)

“relative” means, with respect to a child, a person who is the child’s grandparent, great-uncle, great-aunt, uncle or aunt, including through a spousal relationship or adoption; (“membre de la parenté”)

“residential care” means boarding, lodging and associated supervisory, sheltered or group care provided for a child away from the home of the child’s parent, other than boarding, lodging or associated care for a child who has been placed in the lawful care and custody of a relative or member of the child’s extended family or the child’s community; (“soins en établissement”)

“residential placement” means a place where residential care is provided; (“placement en établissement”. “placé dans un établissement”)

“service” includes,

- (a) a service for a child with a developmental or physical disability or the child’s family,
- (b) a mental health service for a child or the child’s family,
- (c) a service related to residential care for a child,
- (d) a service for a child who is or may be in need of protection or the child’s family,
- (e) a service related to adoption for a child, the child’s family or others,
- (f) counselling for a child or the child’s family,
- (g) a service for a child or the child’s family that is in the nature of support or prevention and that is provided in the community,
- (h) a service or program for or on behalf of a young person for the purposes of the *Youth Criminal Justice Act* (Canada) or the *Provincial Offences Act*, or
- (i) a prescribed service; (“service”)

“service provider” means,

- (a) the Minister,
 - (b) a licensee,
 - (c) a person or entity, including a society, that provides a service funded under this Act, or
 - (d) a prescribed person or entity,
- but does not include a foster parent; (“fournisseur de services”)

“society” means an agency designated as a children’s aid society under subsection 34 (1); (“société”)

“treatment” has the same meaning as in subsection 2 (1) of the *Health Care Consent Act, 1996*; (“traitement”)

“Tribunal” means the Licence Appeal Tribunal; (“Tribunal”)

“young person” means,

- (a) a person who is or, in the absence of evidence to the contrary, appears to be 12 or older but younger than 18 and who is charged with or found guilty of an offence under the *Youth Criminal Justice Act* (Canada) or the *Provincial Offences Act*, or

- (b) if the context requires, any person who is charged under the *Youth Criminal Justice Act* (Canada) with having committed an offence while they were a young person or who is found guilty of an offence under the *Youth Criminal Justice Act* (Canada). (“adolescent”)

Interpretation, “parent”

- (2) Unless this Act provides otherwise, a reference in this Act to a parent of a child is deemed to be a reference to,
- (a) the person who has lawful custody of the child; or
 - (b) if more than one person has lawful custody of the child, all of the persons who have lawful custody of the child, excluding any person who is unavailable or unable to act, as the context requires.

Member of child’s or young person’s community

- (3) For the purposes of this Act, the following persons are members of a child’s or young person’s community:
1. A person who has ethnic, cultural or creedal ties in common with the child or young person or with a parent, sibling or relative of the child or young person.
 2. A person who has a beneficial and meaningful relationship with the child or young person or with a parent, sibling or relative of the child or young person.

Interpretation, child’s or young person’s bands and First Nations, Inuit or Métis communities

- (4) In this Act, a reference to a child’s or young person’s bands and First Nations, Inuit or Métis communities includes all of the following:

1. Any band of which the child or young person is a member.
2. Any band with which the child or young person identifies.
3. Any First Nations, Inuit or Métis community of which the child or young person is a member.
4. Any First Nations, Inuit or Métis community with which the child or young person identifies.

PART II

CHILDREN’S AND YOUNG PERSONS’ RIGHTS

RIGHTS OF CHILDREN AND YOUNG PERSONS RECEIVING SERVICES

Rights of children, young persons receiving services

- 3** Every child and young person receiving services under this Act has the following rights:

1. To express their own views freely and safely about matters that affect them.
2. To be engaged through an honest and respectful dialogue about how and why decisions affecting them are made and to have their views given due weight, in accordance with their age and maturity.
3. To be consulted on the nature of the services provided or to be provided to them, to participate in decisions about the services provided or to be provided to them and to be advised of the decisions made in respect of those services.
4. To raise concerns or recommend changes with respect to the services provided or to be provided to them without interference or fear of coercion, discrimination or reprisal and to receive a response to their concerns or recommended changes.
5. To be informed, in language suitable to their understanding, of their rights under this Part.
6. To be informed, in language suitable to their understanding, of the existence and role of the Provincial Advocate for Children and Youth and of how the Provincial Advocate for Children and Youth may be contacted.

Corporal punishment prohibited

- 4** No service provider or foster parent shall inflict corporal punishment on a child or young person or permit corporal punishment to be inflicted on a child or young person in the course of the provision of a service to the child or young person.

Detention restricted

- 5** No service provider or foster parent shall detain a child or young person or permit a child or young person to be detained in locked premises in the course of the provision of a service to the child or young person, except as Part VI (Youth Justice) and Part VII (Extraordinary Measures) authorize.

Physical restraint restricted

- 6** No service provider or foster parent shall use or permit the use of physical restraint on a child or young person for whom the service provider or foster parent is providing services, except as the regulations authorize.

Mechanical restraints restricted

7 No service provider or foster parent shall use or permit the use of mechanical restraints on a child or young person for whom the service provider or foster parent is providing services, except as Part VI (Youth Justice), Part VII (Extraordinary Measures) and the regulations authorize.

RIGHTS OF CHILDREN IN CARE**Right to be heard in respect of decisions**

8 (1) For greater certainty, the rights under section 3 of a child in care apply to decisions affecting them, including decisions with respect to,

- (a) the child's or young person's treatment, education or training or work programs;
- (b) the child's or young person's creed, community identity and cultural identity; and
- (c) the child's or young person's placement in or discharge from a residential placement or transfer to another residential placement.

Views to be given due weight

(2) The child's or young person's views with respect to the decisions described in subsection (1) shall be given due weight, in accordance with the child's or young person's age and maturity as required by paragraph 2 of section 3.

Right to be informed re residential placement admission

9 Upon admission to a residential placement, and at regular intervals thereafter, or, where intervals are prescribed, at the prescribed intervals thereafter, a child in care has a right to be informed, in language suitable to their understanding, of,

- (a) their rights under this Part;
- (b) the complaints procedures established under subsection 18 (1) and the further review available under section 19;
- (c) the review procedures available for children under sections 64, 65 and 66;
- (d) the review procedures available under section 152, in the case of a young person described in clause (b) of the definition of "child in care" in subsection 2 (1);
- (e) their responsibilities while in the placement; and
- (f) the rules governing day-to-day operation of the residential care, including disciplinary procedures.

Rights of communication, etc.

10 (1) A child in care has a right,

- (a) to speak in private with, visit and receive visits from members of their family or extended family regularly, subject to subsection (2);
- (b) without unreasonable delay, to speak in private with and receive visits from,
 - (i) their lawyer,
 - (ii) another person representing the child or young person, including the Provincial Advocate for Children and Youth and members of the Provincial Advocate for Children and Youth's staff,
 - (iii) the Ombudsman appointed under the *Ombudsman Act* and members of the Ombudsman's staff, and
 - (iv) a member of the Legislative Assembly of Ontario or of the Parliament of Canada; and
- (c) to send and receive written communications that are not read, examined or censored by another person, subject to subsections (3) and (4).

When child is in extended society care

(2) A child in care who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) is not entitled as of right to speak with, visit or receive visits from a member of their family or extended family, except under an order for access made under Part V (Child Protection) or an openness order or openness agreement made under Part VIII (Adoption and Adoption Licensing).

Opening, etc., of written communications to child in care

(3) Subject to subsection (4), written communications to a child in care,

- (a) may be opened by the service provider or a member of the service provider's staff in the child's or young person's presence and may be inspected for articles prohibited by the service provider;

- (b) subject to clause (c), may be examined or read by the service provider or a member of the service provider's staff in the child's or young person's presence, where the service provider believes on reasonable grounds that the contents of the written communication may cause the child or young person physical or emotional harm;
- (c) shall not be examined or read by the service provider or a member of the service provider's staff if it is to or from a person described in subclause (1) (b) (i), (ii), (iii) or (iv); and
- (d) shall not be censored or withheld from the child or young person, except that articles prohibited by the service provider may be removed from the written communication and withheld from the child or young person.

Opening, etc., of young person's written communications

(4) Written communications to and from a young person who is detained in a place of temporary detention or held in a place of secure custody or of open custody,

- (a) may be opened by the service provider or a member of the service provider's staff in the young person's presence and may be inspected for articles prohibited by the service provider;
- (b) may be examined or read by the service provider or a member of the service provider's staff and may be withheld from the recipient in whole or in part where the service provider or the member of their staff believes on reasonable grounds that the contents of the written communications,
 - (i) may be prejudicial to the best interests of the young person, the public safety or the safety or security of the place of detention or custody, or
 - (ii) may contain communications that are prohibited under the *Youth Criminal Justice Act* (Canada) or by court order;
- (c) shall not be examined or read under clause (b) if it is to or from the young person's lawyer; and
- (d) shall not be opened and inspected under clause (a) or examined or read under clause (b) if it is to or from a person described in subclause (1) (b) (ii), (iii) or (iv).

Definition

(5) In this section,

“written communications” includes mail and electronic communication in any form.

Conditions and limitations on visitors

11 (1) A service provider may impose such conditions and limitations on persons who are visiting a young person in a place of temporary detention, of open custody or of secure custody as are necessary to ensure the safety of staff or young persons in the facility.

Suspending visits in emergencies

(2) Where a service provider has reasonable grounds to believe there are emergency circumstances within a facility that is a place of temporary detention, of open custody or of secure custody or within the community that may pose a risk to staff or young persons in the facility, the service provider may suspend visits until there are reasonable grounds to believe the emergency has been resolved and there is no longer a risk to staff or young persons in the facility.

Limited exception

(3) Despite subsection (2), the service provider may not suspend visits from,

- (a) the Provincial Advocate for Children and Youth and members of the Provincial Advocate for Children and Youth's staff;
- (b) the Ombudsman appointed under the *Ombudsman Act* and members of the Ombudsman's staff; or
- (c) a member of the Legislative Assembly of Ontario or of the Parliament of Canada,

unless the provincial director determines that suspension is necessary to ensure public safety or the safety of staff or young persons in the facility.

Personal liberties

12 A child in care has a right,

- (a) to have reasonable privacy and possession of their own personal property, subject to section 155; and
- (b) to receive instruction and participate in activities of their choice related to their creed, community identity and cultural identity, subject to section 14.

Plan of care

13 (1) A child in care has a right to a plan of care designed to meet their particular needs, which shall be prepared within 30 days of the child's or young person's admission to the residential placement.

Rights to care

(2) A child in care has a right,

- (a) to participate in the development of their individual plan of care and in any changes made to it;
- (b) to have access to food that is of good quality and appropriate for the child or young person, including meals that are well balanced;
- (c) to be provided with clothing that is of good quality and appropriate for the child or young person, given their size and activities and prevailing weather conditions;
- (d) to receive medical and dental care, subject to section 14, at regular intervals and whenever required, in a community setting whenever possible;
- (e) to receive an education that corresponds to their aptitudes and abilities, in a community setting whenever possible; and
- (f) to participate in recreational, athletic and creative activities that are appropriate for their aptitudes and interests, in a community setting whenever possible.

Parental consent, etc.

14 Subject to subsection 94 (7) and sections 110 and 111 (custody during adjournment, interim and extended society care), the parent of a child in care retains any right that the parent may have,

- (a) to direct the child's or young person's education and upbringing, in accordance with the child's or young person's creed, community identity and cultural identity; and
- (b) to consent to treatment on behalf of an incapable child or young person, if the parent is the child's or young person's substitute decision-maker in accordance with section 20 of the *Health Care Consent Act, 1996*.

SERVICE PROVIDERS' DUTIES IN RESPECT OF CHILDREN'S AND YOUNG PERSONS' RIGHTS**Children's, young persons' rights to respectful services**

15 (1) Service providers shall respect the rights of children and young persons as set out in this Act.

Children, young persons to be heard and represented

(2) Service providers shall ensure that children and young persons and their parents have an opportunity to be heard and represented when decisions affecting their interests are made and to be heard when they have concerns about the services they are receiving.

Exception

(3) Subsection (2) does not apply to a child or young person or parent of a child or young person if there is good cause for not giving that person an opportunity to be heard or represented as described in that subsection.

Criteria and safeguards re decisions

(4) Service providers shall ensure that decisions affecting the interests and rights of children and young persons and their parents are made according to clear, consistent criteria and are subject to appropriate procedural safeguards.

Information about Provincial Advocate for Children and Youth to be displayed and available

(5) Service providers shall,

- (a) prominently display at their premises, in a manner visible to persons receiving services, a notice advising of the existence and role of the Provincial Advocate for Children and Youth and of how the Provincial Advocate for Children and Youth may be contacted; and
- (b) make available on request informational materials produced by the Provincial Advocate for Children and Youth.

French language services

16 Service providers shall, where appropriate, make services to children and young persons and their families available in the French language.

ALTERNATIVE DISPUTE RESOLUTION**Resolution of issues by prescribed method of alternative dispute resolution**

17 (1) If a child is or may be in need of protection under this Act, a society shall consider whether a prescribed method of alternative dispute resolution could assist in resolving any issue related to the child or a plan for the child's care.

First Nations, Inuk or Métis child

(2) If the issue referred to in subsection (1) relates to a First Nations, Inuk or Métis child, the society shall consult with a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities to determine whether an

alternative dispute resolution process established by the bands and communities or another prescribed alternative dispute resolution process could assist in resolving the issue.

Children's Lawyer

(3) If a society or a person, including a child, who is receiving child welfare services proposes that an alternative dispute resolution method or process referred to in subsection (1) or (2) be undertaken to assist in resolving an issue relating to a child or a plan for the child's care, the Children's Lawyer may provide legal representation to the child if, in the opinion of the Children's Lawyer, such legal representation is appropriate.

Notice to band, community

(4) If a society makes or receives a proposal that an alternative dispute resolution method or process referred to in subsection (1) or (2) be undertaken under subsection (3) in a matter involving a First Nations, Inuk or Métis child, the society shall give notice of the proposal to a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

COMPLAINTS AND REVIEWS

Complaints procedure

18 (1) A service provider who provides residential care to children or young persons or who places children or young persons in residential placements shall establish a written procedure, in accordance with the regulations, for hearing and dealing with,

- (a) complaints regarding alleged violations of the rights under this Part of children in care; and
- (b) complaints by children in care or other persons affected by conditions or limitations imposed on visitors under subsection 11 (1) or suspensions of visits under subsection 11 (2).

Provincial Advocate for Children and Youth

(2) The procedure established under subsection (1) must provide that the service provider shall tell the children in care that they may ask for the assistance of the Provincial Advocate for Children and Youth in,

- (a) making a complaint under clause (1) (a) or (b); and
- (b) requesting a further review under subsection 19 (1) of the complaint once the review by the service provider is completed.

Review of complaint

(3) A service provider shall conduct a review or ensure that a review is conducted, in accordance with the procedure established under clause (1) (a) or (b), on the complaint of,

- (a) a child in care or a group of children in care;
- (b) the parent of a child in care who makes a complaint;
- (c) another person representing the child in care who makes a complaint; or
- (d) a person affected by a condition or limitation imposed on visitors under subsection 11 (1) or a suspension of visits under subsection 11 (2),

and shall seek to resolve the complaint.

Response to complainants

(4) Upon completion of its review under subsection (3), the service provider shall inform each person who made the complaint, whether as an individual or as part of a group, of the results of the review.

Further review

19 (1) Where a person referred to in subsection 18 (3) makes a complaint, whether as an individual or as part of a group, and is not satisfied with the results of the review conducted under that subsection and requests in writing that the Minister appoint a person to conduct a further review of the complaint, the Minister shall appoint a person who is not employed by the service provider to do so.

Same

(2) A person appointed under subsection (1) shall review the complaint in accordance with the regulations and may do so by holding a hearing.

Procedure

(3) The *Statutory Powers Procedure Act* does not apply to a hearing held under subsection (2).

Powers of appointed person

(4) A person appointed under subsection (1) has, for the purposes of the review, all the powers of a program supervisor appointed under subsection 53 (2).

Review and report within 30 days

(5) A person appointed under subsection (1) shall, within 30 days after the day of the appointment, complete the review, set out in a report the person's findings and recommendations, including the reasons for not holding a hearing if none was held, and provide copies of the report to,

- (a) each person who made the complaint, whether as an individual or as part of a group;
- (b) the service provider; and
- (c) the Minister.

Minister to advise persons affected of any decision

20 (1) Where the Minister decides to take any action with respect to a complaint after receiving a report under subsection 19 (5), the Minister shall advise the service provider and each person who made the complaint, whether as an individual or as part of a group, of the decision.

Remedies preserved

(2) The Minister's decision referred to in subsection (1) does not affect any other remedy that may be available.

CONSENT AND VOLUNTARY SERVICES**Consents and agreements**

21 (1) In this section,

"capacity" means the capacity to understand and appreciate the nature of a consent or agreement and the consequences of giving, withholding or withdrawing the consent or making, not making or terminating the agreement: ("jouit de toutes ses facultés mentales")

"nearest relative", when used in reference to a person who is younger than 16, means the person with lawful custody of the person, and when used in reference to a person who is 16 or older, means the person who would be authorized to give or refuse consent to a treatment on the person's behalf under the *Health Care Consent Act, 1996* if the person were incapable with respect to the treatment under that Act. ("membre de la parenté le plus proche")

Elements of valid consent or agreement, etc.

(2) A person's consent or withdrawal of a consent or participation in or termination of an agreement under this Act is valid if, at the time the consent is given or withdrawn or the agreement is made or terminated, the person,

- (a) has capacity;
- (b) is reasonably informed as to the nature and consequences of the consent or agreement, and of alternatives to it;
- (c) gives or withdraws the consent or executes the agreement or notice of termination voluntarily, without coercion or undue influence; and
- (d) has had a reasonable opportunity to obtain independent advice.

Where person lacks capacity

(3) A person's nearest relative may give or withdraw a consent or participate in or terminate an agreement on the person's behalf if it has been determined on the basis of an assessment, not more than one year before the nearest relative acts on the person's behalf, that the person does not have capacity.

Exceptions: ss. 180, 74 (2) (n)

(4) Subsection (3) does not apply to a consent under section 180 (consents to adoption) or to a parent's consent referred to in clause 74 (2) (n) (child in need of protection).

Consent, etc., of minor

(5) A person's consent or withdrawal of a consent or participation in or termination of an agreement under this Act is not invalid by reason only that the person is younger than 18.

Exception: Part X

(6) This section does not apply in respect of the collection, use or disclosure of personal information under Part X (Personal Information).

Consent to service**Consent to service: person 16 or older**

22 (1) Subject to clause (2) (b) and subsection (3), a service provider may provide a service to a person who is 16 or older only with the person's consent, except where the court orders under this Act that the service be provided to the person.

Consent to residential care: child younger than 16 or in society's care

(2) A service provider may provide residential care to a child,

- (a) if the child is younger than 16, with the consent of the child's parent; and
- (b) if the child is in a society's lawful custody, with the society's consent,

except where this Act provides otherwise.

Exception — Part VI

(3) Subsections (1) and (2) do not apply where a service is provided to a young person under Part VI (Youth Justice).

Discharge from residential placement

(4) A child who is placed in a residential placement with the consent referred to in subsection (1) or (2) may only be discharged from the placement,

- (a) with the consent that would be required for a new residential placement;
- (b) where the placement is made under the authority of an agreement made under subsection 75 (1) (temporary care agreements), in accordance with section 76 (notice of termination); or
- (c) where the placement is made under the authority of an agreement made under subsection 77 (1) (agreements with 16 and 17 year olds), in accordance with subsection 77 (4) (notice of termination).

Transfer to another placement

(5) A child who is placed in a residential placement with the consent referred to in subsection (1) or (2) shall not be transferred from one placement to another unless the consent that would be required for a new residential placement is given.

Child's views and wishes

(6) Before a child is placed in or discharged from a residential placement or transferred from one residential placement to another with the consent referred to in subsection (2), the service provider shall,

- (a) ensure that the child and the person whose consent is required under subsection (2) are made aware of and understand, as far as possible, the reasons for the placement, discharge or transfer; and
- (b) take the child's views and wishes into account, given due weight in accordance with the child's age and maturity.

Application of *Health Care Consent Act, 1996*

(7) If the service being provided is a treatment to which the *Health Care Consent Act, 1996* applies, the consent provisions of that Act apply instead of this section.

Counselling service: child 12 or older

23 (1) A service provider may provide a counselling service to a child who is 12 or older with the child's consent, and no other person's consent is required, but if the child is younger than 16, the service provider shall discuss with the child at the earliest appropriate opportunity the desirability of involving the child's parent.

Application of *Health Care Consent Act, 1996*

(2) If the counselling service being provided is a treatment to which the *Health Care Consent Act, 1996* applies, the consent provisions of that Act apply instead of subsection (1).

PART III FUNDING AND ACCOUNTABILITY

Definition

24 In this Part,

“lead agency” means an entity designated as a lead agency under subsection 30 (1).

FUNDING OF SERVICES AND LEAD AGENCIES

Provision of services directly or by others

25 The Minister may,

- (a) provide services;

- (b) establish, operate and maintain premises for the provision of services;
- (c) provide funding, pursuant to agreements, to persons, agencies, municipalities, organizations and other prescribed entities,
 - (i) for the provision or coordination of services by them,
 - (ii) for the acquisition, maintenance or operation of premises used for the provision or coordination of services,
 - (iii) for the establishment of advisory groups or committees with respect to services,
 - (iv) for research, evaluation, planning, development, co-ordination or redesign with respect to services,
 - (v) for any other prescribed purpose; and
- (d) provide funding, pursuant to agreements, to lead agencies with respect to the performance of the functions referred to in subsection 30 (5).

Services to persons older than 18

26 The Minister may provide services and provide funding pursuant to agreements for the provision of services to persons who are not children, and to their families, as if those persons were children.

Minister's advisory committee

27 The Minister may appoint members to a Minister's advisory committee, established by order of the Lieutenant Governor in Council, to advise the Minister on child and family well-being.

Security for payment of funds

28 The Minister may, as a condition of making a payment under this Part or the regulations, require the recipient of the funds to secure them by way of mortgage, lien, charge, caution, registration of agreement or in such other manner as the Minister determines.

Conditions on transfer of assets

29 No service provider or lead agency shall transfer or assign any of its assets acquired with financial assistance from the Province of Ontario, except in accordance with the regulations or any term of an agreement with the Minister.

Lead agencies**Designation**

30 (1) The Minister may designate an entity as a lead agency.

Conditions of designation

(2) The Minister may impose conditions on a designation made under this section and may at any time amend or remove the conditions or impose new ones.

Revocation of designation

(3) The Minister may revoke a designation made under this section.

Categories of lead agencies

(4) The Minister may assign lead agencies to different lead agency categories established by the regulations.

Functions of lead agencies

(5) Every lead agency shall perform the functions assigned to the lead agency's category by the regulations.

List of lead agencies and categories

(6) The Minister shall maintain a list of lead agencies and their categories.

Public availability

(7) The Minister shall make the list available to the public.

Placements must comply with Act and regulations, etc.

31 No service provider shall place a child in a residential placement except in accordance with this Act, the regulations and the directives issued under this Act.

DIRECTIVES AND COMPLIANCE ORDERS (LEAD AGENCIES AND SERVICE PROVIDERS)**Directives by Minister****Non-application**

32 (1) This section and section 33 do not apply in respect of,

- (a) licensees under Part IX (Residential Licensing), when acting in their capacity as licensees under that Part; or

- (b) societies, when performing their functions under subsection 35 (1).

Directives

- (2) The Minister may issue directives to service providers and lead agencies with respect to any prescribed matter.

Binding

- (3) Every service provider and lead agency shall comply with every directive issued to it under this section.

General or particular

- (4) A directive may be general or particular in its application.

Law prevails

- (5) For greater certainty, in the event of a conflict between a directive issued under this section and a provision of any applicable Act or rule of any applicable law, the provision or rule prevails.

Public availability

- (6) The Minister shall make every directive under this section available to the public.

Non-application of Legislation Act, 2006

- (7) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a directive issued under this section.

Compliance order**Grounds**

33 (1) A program supervisor may make an order under subsection (2) if the program supervisor believes on reasonable grounds that a service provider or lead agency has failed to comply with,

- (a) this Act or the regulations;
- (b) a directive issued under section 32;
- (c) in the case of a service provider, an agreement referred to in clause 25 (c) or section 26; or
- (d) in the case of a lead agency,
 - (i) an agreement referred to in clause 25 (d);
 - (ii) a condition imposed on the lead agency's designation under subsection 30 (2), or
 - (iii) subsection 30 (5) (functions of lead agencies).

Order

(2) For the purposes of subsection (1), a program supervisor may issue an order to the service provider or lead agency that requires either or both of the following:

- 1. That the service provider or lead agency do anything, or refrain from doing anything, to achieve compliance within the time period specified in the order.
- 2. That the service provider or lead agency prepare, submit and implement, within the time period specified in the order, a plan for achieving compliance.

Compliance required

(3) A service provider or lead agency served with an order under this section shall comply with the order within the time specified in it.

Public availability

- (4) The Minister,
- (a) may make orders under this section available to the public; and
 - (b) shall make a summary of each order under this section available to the public in accordance with the regulations.

Failure to comply

(5) If a service provider or lead agency fails to comply with an order made under this section within the time specified in it, the Minister may terminate all or part of the funding provided to the service provider or lead agency.

CHILDREN'S AID SOCIETIES

Children's aid society**Designation**

34 (1) The Minister may designate an agency as a children's aid society for a specified territorial jurisdiction and for any or all of the functions of a society set out in subsection 35 (1).

Conditions on designation

(2) For any or all of the functions of a society set out in subsection 35 (1), the Minister may impose conditions on the designation and may at any time amend or remove the conditions or impose new ones.

Amendment of designation

(3) The Minister may at any time amend a designation to provide that the society is no longer designated for a particular function or functions set out in subsection 35 (1) or to alter the society's territorial jurisdiction.

Society deemed to be a local board

(4) A society is deemed to be a local board of each municipality in which it has jurisdiction for the purposes of the *Ontario Municipal Employees Retirement System Act, 2006* and the *Municipal Conflict of Interest Act*.

Not Crown agents

(5) A society and its members, officers, employees and agents are not agents of the Crown in right of Ontario and shall not hold themselves out as such.

No Crown liability

(6) No action or other proceeding shall be instituted against the Crown in right of Ontario for any act or omission of a society or its members, officers, employees or agents.

Functions

35 (1) The functions of a children's aid society are to,

- (a) investigate allegations or evidence that children may be in need of protection;
- (b) protect children where necessary;
- (c) provide guidance, counselling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children;
- (d) provide care for children assigned or committed to its care under this Act;
- (e) supervise children assigned to its supervision under this Act;
- (f) place children for adoption under Part VIII (Adoption and Adoption Licensing); and
- (g) perform any other duties given to it by this Act or the regulations or any other Act.

Prescribed standards, etc.

(2) A society shall,

- (a) provide the prescribed standard of services in its performance of its functions; and
- (b) follow the prescribed procedures and practices.

Governance matters**First Nations, Inuit or Métis representatives on board**

36 (1) A society that provides services to First Nations, Inuit or Métis children and families shall have the prescribed number of First Nations, Inuit or Métis representatives on its board of directors, appointed in the prescribed manner and for the prescribed terms.

Employee may not sit on board

(2) An employee of a society shall not be a member of the society's board.

By-laws

(3) The by-laws of a society shall include any provisions that are prescribed.

No personal liability

37 No action shall be instituted against a member of the board of directors or an officer or employee of a society for any act done in good faith in the execution or intended execution of the person's duty or for an alleged neglect or default in good faith in the execution of that duty.

Appointment of local director

38 Every society shall appoint a local director with the prescribed qualifications, powers and duties.

Designation of places of safety

39 For the purposes of Part V (Child Protection), a local director may designate a place as a place of safety and may designate a class of places as places of safety.

FUNDING AND ACCOUNTABILITY AGREEMENTS**Funding****Payments by Minister**

40 (1) The Minister shall pay to every society, out of money appropriated for the purpose by the Legislature, an amount determined in accordance with the regulations.

Manner of payment

(2) An amount payable to a society under subsection (1), including advances on expenditures before they are incurred, shall be paid at the times and in the manner determined by the Minister.

Accountability agreement

41 (1) Every society shall enter into an accountability agreement with the Minister as a condition of receiving funding.

Term

(2) The term of an accountability agreement shall be for at least one of the Ministry's fiscal years but may be for a longer term specified by the Minister.

Board approval

(3) The society's board of directors shall approve the accountability agreement before the society enters into the agreement.

Content

(4) An accountability agreement must include a requirement that the society operate within its approved budget allocation and any other prescribed terms.

If no agreement

(5) If the Minister and a society cannot agree on the terms of an accountability agreement by a date determined by the Minister, the Minister may set the terms of the agreement.

DIRECTIVES AND COMPLIANCE ORDERS (SOCIETIES)**Directives by Minister**

42 (1) The Minister may issue directives to societies, including directives with respect to financial and administrative matters and the performance of their functions under subsection 35 (1).

Binding

(2) A society shall comply with every directive issued to it under this section.

General or particular

(3) A directive may be general or particular in its application.

Law prevails

(4) For greater certainty, in the event of a conflict between a directive issued under this section and a provision of any applicable Act or rule of any applicable law, the provision or rule prevails.

Public availability

(5) The Minister shall make every directive under this section available to the public.

Non-application of *Legislation Act, 2006*

(6) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a directive issued under this section.

Compliance order**Grounds**

43 (1) A Director may make an order under subsection (2) if the Director believes on reasonable grounds that a society has failed to comply with,

- (a) this Act or the regulations;

- (b) a condition imposed on the society's designation under subsection 34 (2);
- (c) an accountability agreement entered into under section 41; or
- (d) a directive issued under section 42.

Order

(2) For the purposes of subsection (1), a Director may issue an order to the society that requires either or both of the following:

1. That the society do anything, or refrain from doing anything, to achieve compliance within the time period specified in the order.
2. That the society prepare, submit and implement, within the time period specified in the order, a plan for achieving compliance.

Compliance required

(3) A society served with an order under this section shall comply with the order within the time specified in it.

Public availability

- (4) The Minister,
- (a) may make orders under this section available to the public; and
 - (b) shall make a summary of each order under this section available to the public in accordance with the regulations.

MINISTER'S POWERS**Powers of Minister****Grounds**

44 (1) The Minister may exercise a power set out in subsection (3) if,

- (a) a society has failed to comply with a compliance order made under section 43 within the time specified in it; or
- (b) the Minister considers it to be in the public interest to do so.

Public interest

(2) In considering the public interest under clause (1) (b), the Minister may consider any matter the Minister regards as relevant including,

- (a) the quality of the financial and operational management of the society;
- (b) the society's capabilities with respect to its corporate governance; and
- (c) the quality of services provided by the society.

Powers

(3) For the purposes of subsection (1), the Minister may do one or more of the following:

1. Order that the society cease a particular activity or take other corrective action within the time specified in the order.
2. Impose or amend conditions on the society's designation under subsection 34 (1).
3. Suspend, amend or revoke the designation of the society.
4. Appoint members of the society's board of directors if,
 - i. there are vacancies on the board, or
 - ii. there are no vacancies, but the appointment is for the purposes of designating that member as chair of the board under paragraph 7.
5. Remove members of the board and appoint others in their place.
6. Designate a chair of the board, if the office of chair is vacant.
7. Designate another chair of the board in place of the current chair.
8. Appoint a supervisor to operate and manage the affairs and activities of the society.

Notice of proposal

(4) If the Minister proposes to act under subsection (3), the Minister shall give written notice of the proposal and reasons for it to the society.

Immediate action

(5) Subsection (4) does not apply if,

- (a) in the Minister's opinion, the society has, by its conduct, acquiesced to the Minister's proposal;
- (b) the society has consented to the proposal; or
- (c) there are not enough members on the board to form a quorum.

Right to respond

(6) A society that receives notice under subsection (4) may make written submissions to the Minister within 14 days after receipt of the notice or within a different time period specified in the notice.

Minister's decision

(7) After considering a written submission from the society or, if no submission is received, after the time period under subsection (6) has expired, the Minister may carry out the proposal and shall give written notice of the decision and reasons for it to the society.

Decision final

(8) The Minister's decision is final.

Provisional action

(9) Despite subsection (4), the Minister may provisionally exercise any of the powers set out in subsection (3) where, in the Minister's opinion, it is necessary to do so to avert an immediate threat to the public interest or to a person's health, safety or well-being.

Notice

(10) The Minister shall give written notice of the provisional exercise of the power and reasons for it to the society.

Decision final

(11) The Minister's decision to provisionally exercise the power is final.

Appointments to board, etc.**Members**

45 (1) If the Minister appoints members of a society's board of directors under paragraph 4 or 5 of subsection 44 (3), the following rules apply:

- 1. The Minister shall ensure that the members do not constitute a majority of the number of members required to be on the board.
- 2. The members shall be appointed at the pleasure of the Minister for a period that does not exceed two years.
- 3. The members may serve as appointed members for no more than two consecutive years.
- 4. The members shall have the same rights and responsibilities as the members of the board that have been elected.

Chair

(2) If the Minister designates a chair of the board of directors under paragraph 6 or 7 of subsection 44 (3), the following rules apply:

- 1. The chair may be designated from among the members of the board, including any members appointed by the Minister under paragraph 4 or 5 of subsection 44 (3).
- 2. The chair shall be designated at the pleasure of the Minister for a period that does not exceed two years.
- 3. The chair may serve as chair for no more than two consecutive years.
- 4. In the case of a designation under paragraph 7 of subsection 44 (3), the former chair may remain a member of the board.

Appointment of supervisor

46 (1) This section applies if a supervisor is appointed to operate and manage the affairs and activities of a society under paragraph 8 of subsection 44 (3).

Term of appointment

(2) The appointment of a supervisor is valid for a period not exceeding one year without the society's consent, but the Lieutenant Governor in Council may extend the period at any time.

Powers and duties of supervisor

(3) Unless the appointment provides otherwise, the supervisor has the exclusive right to exercise all the powers and perform all the duties of the society and its members, directors, Executive Director and officers.

Same

(4) The Minister may, in the appointment, specify the supervisor's powers and duties and the conditions governing them.

Examples of powers and duties

(5) Without limiting the generality of subsection (4), the supervisor's powers and duties may include the following:

1. Carrying on the society's affairs and activities.
2. Entering into contracts on the society's behalf.
3. Arranging for bank accounts to be opened in the society's name.
4. Authorizing persons to sign financial and other documents on the society's behalf.
5. Hiring or dismissing employees of the society.
6. Making, amending or revoking the society's by-laws.
7. Executing and filing documents on the society's behalf, including applications under the *Corporations Act* and notices and returns under the *Corporations Information Act*.

Continued powers and duties of society, etc.

(6) If, under the appointment, the society or its members, directors, Executive Director or officers continue to have any powers or duties during the supervisor's appointment, any exercise of that power or performance of that duty by the society or its members, directors, Executive Director or officers during that time is valid only if approved by the supervisor in writing.

Assistance

(7) The supervisor may apply to the Superior Court of Justice for an order directing a peace officer to assist the supervisor in occupying the premises of a society.

Report to Minister

(8) The supervisor shall report to the Minister as the Minister requires.

Minister's directions

(9) The Minister may issue directions to the supervisor with regard to any matter within the supervisor's jurisdiction, and the supervisor shall carry them out.

No proceedings against Crown

(10) No proceeding, other than a proceeding referred to in subsection (12), shall be commenced against the Crown or the Minister with respect to the appointment of the supervisor or any act of the supervisor done in good faith in the execution or intended execution of any duty or power under this Act or the regulations, or for an alleged neglect or default in the execution in good faith of that duty or power.

No personal liability

(11) No action or other proceeding shall be instituted against the supervisor for any act done in good faith in the execution or intended execution of any duty or power under this Act or the regulations, or for an alleged neglect or default in the execution in good faith of that duty or power.

Crown liability

(12) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (11) of this section does not relieve the Crown of liability to which the Crown would otherwise be subject in respect of a tort committed by a supervisor.

Effect on board

(13) On the appointment of a supervisor, the members of the society's board cease to hold office, unless the appointment provides otherwise.

Same

(14) During the term of the supervisor's appointment, the powers of any member of the board who continues to hold office are suspended, unless the appointment provides otherwise.

No personal liability

(15) No action or other proceeding shall be instituted against a member or former member of the board for anything done by the supervisor after the member's removal under subsection (13) or while the member's powers are suspended under subsection (14).

RESTRUCTURING**Amalgamation by societies****Amalgamation proposal**

47 (1) Two or more societies that are proposing to amalgamate and continue as one society shall submit an amalgamation proposal to the Minister containing the information and in the form specified by the Minister.

Minister approval of proposal

(2) The Minister may amend the amalgamation proposal and may approve it in whole or in part.

Amalgamation agreement

(3) The societies shall not enter into an agreement to amalgamate under subsection 113 (2) of the *Corporations Act* until they have received the Minister's approval of the amalgamation proposal under subsection (2). The amalgamation agreement must be consistent with the amalgamation proposal.

Minister approval of amalgamation application

(4) The societies shall not apply to amalgamate under subsection 113 (4) of the *Corporations Act* until the application has first received the approval of the Minister.

Minister's directions

(5) The Minister may, at any time, issue directions to the societies with regard to the proposed amalgamation, including requiring that a society provide information or documents to the Minister, and the society shall comply with the directions.

Restructuring by Minister's order

48 (1) If the Minister considers it to be in the public interest, including to enhance the efficiency, effectiveness and consistency of services, the Minister may order a society to do any of the following on or after the date set out in the order:

1. To amalgamate with one or more other societies.
2. To transfer all or any part of its operations to one or more other societies.
3. To cease operating, to dissolve or to wind up its operations.
4. To do anything or refrain from doing anything in order for the society to achieve anything under paragraphs 1 to 3.

Minister's directions

(2) The Minister may, in the order, include directions to provide the following to the Minister within the time set out in the order:

1. A plan to implement the order, including with respect to the transfer of assets, liabilities, rights and obligations, and of employees.
2. A timeline according to which the order will be implemented.
3. A proposed budget for implementation of the order.
4. Information about the status of the implementation of the order.
5. In the case of an order made under paragraph 1 of subsection (1), an amalgamation agreement for the Minister's approval.
6. Information with respect to any other matter specified by the Minister.

Notice of proposed order

(3) If the Minister proposes to make an order under subsection (1), the Minister shall give written notice of the proposed order and any directions contained in the order, and reasons for them, to each affected society.

Notice to employees and bargaining agents

(4) Each society that receives a notice under subsection (3) shall give a copy of the notice to affected employees and their bargaining agents.

Right to respond re directions

(5) A society may make written submissions to the Minister within 30 days after receipt of the notice or within a different time period specified in the notice. The written submissions may be with respect to any directions contained in the order, but not with respect to the order itself.

Minister's decision re directions

(6) After considering a written submission from the society or, if no submission is received, after the time period under subsection (5) has expired, the Minister may confirm, revoke or amend the directions contained in the order.

Notice of order

(7) The Minister shall give a copy of the order to each affected society.

Duty of society

(8) Each society that receives an order under subsection (7) shall,

- (a) give notice of the order to affected employees and their bargaining agents and to other persons or entities whose contracts are affected by the order; and
- (b) make the order available to the public.

Additional changes

(9) The Minister may, at any time, revoke or amend an order made under this section, including any directions contained in the order. If the Minister does so, subsections (3) to (8) apply with necessary modifications.

Compliance

(10) A society that is the subject of an order under this section shall comply with it.

Corporate powers

(11) A society that is the subject of an order under this section is deemed to have the necessary powers to comply with the order, despite any of the following:

1. Any Act or regulation.
2. Any other instrument related to the corporate governance of a society, including the *Corporations Act* or any letters patent, supplementary letters patent or by-laws.

Non-application of *Legislation Act, 2006*

(12) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made under this section.

Minister approval of amalgamation agreement

(13) When a society provides an amalgamation agreement to the Minister in accordance with directions given under paragraph 5 of subsection (2), the Minister may amend the agreement and may approve it in whole or in part.

Minister approval of amalgamation application

(14) A society shall not apply to amalgamate under subsection 113 (4) of the *Corporations Act* until the application has first received the approval of the Minister.

Appointment of supervisor for restructuring

49 (1) The Minister may appoint a supervisor to implement or facilitate the implementation of an order made under section 48 if,

- (a) an affected society has failed to comply with the order; or
- (b) in the Minister's opinion, there is undue delay, lack of progress or disagreement between or among affected parties that is preventing or is likely to prevent an affected society from complying with the order.

Application of other provisions

(2) If the Minister proposes to appoint a supervisor under subsection (1), subsections 44 (4) to (8) and subsections 46 (2) to (15) apply with necessary modifications.

Board compliance

(3) The members of an affected society's board of directors shall comply with decisions of a supervisor appointed under subsection (1) to facilitate the implementation of an order made under section 48 with regard to matters within the supervisor's jurisdiction.

Conflict with *Corporations Act*, etc.

50 In the event of a conflict between sections 44 to 49 and any of the following, sections 44 to 49 prevail:

1. The *Corporations Act* or regulations made under that Act.
2. A society's letters patent, supplementary letters patent or by-laws.

Transfer of property held for charitable purpose

51 (1) If an order made under section 48 directs a society to transfer to a transferee property that it holds for a charitable purpose, all gifts, trusts, bequests, devises and grants of property that form part of the property being transferred are deemed to be gifts, trusts, bequests, devises and grants of property to the transferee.

Specified purpose

(2) If a will, deed or other document by which a gift, trust, bequest, devise or grant mentioned in subsection (1) is made indicates that the property being transferred is to be used for a specified purpose, the transferee shall use it for the specified purpose.

Application

(3) Subsections (1) and (2) apply whether the will, deed or document by which the gift, trust, bequest, devise or grant is made, is made before or after this section comes into force.

No compensation

52 (1) Despite any other Act, no person or entity, including a society, is entitled to any compensation for any loss or damages arising from any direct or indirect action that the Minister or a supervisor appointed under section 44 or 49 takes under this Act, including making an order under section 48.

Same, transfer of property

(2) Despite any other Act, no person or entity, including a society, is entitled to compensation for any loss or damages, including loss of use, loss of revenue and loss of profit, arising from the transfer of property under an order made under section 48.

No expropriation

(3) Nothing in this Part and nothing done or not done in accordance with this Part constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

APPOINTMENTS AND DELEGATIONS**Directors and program supervisors****Appointment of Director**

53 (1) The Minister may appoint any person as a Director to perform any or all of the duties and functions and exercise any or all of the powers of a Director under this Act and the regulations.

Appointment of program supervisor

(2) The Minister may appoint any person as a program supervisor to perform any or all of the duties and functions and exercise any or all of the powers of a program supervisor under this Act and the regulations.

Limitations, etc., on appointments

(3) The Minister may set out in an appointment made under this section any conditions or limitations to which it is subject.

Remuneration and expenses

(4) The remuneration and expenses of a person appointed under this section who is not a public servant employed under Part III of the *Public Service of Ontario Act, 2006* shall be fixed by the Minister and shall be paid out of money appropriated for the purpose by the Legislature.

Duties of Director with respect to societies

54 (1) A Director shall exercise the powers and perform the duties of a society in any area in which no society is functioning.

Powers of local director

(2) In exercising the powers and performing the duties of a society under subsection (1), a Director has all the powers of a local director.

Delegation by Minister

55 (1) Where, under this Act, a power is given to or a duty is imposed on the Minister, a Director, a program supervisor or an employee in the Ministry, the Minister may delegate that power or duty to any other person or class of persons.

Conditions, etc.

(2) The delegation must be made in writing and is subject to such limitations, conditions and requirements as are set out in it.

Deeds and contracts

(3) Section 6 of the *Executive Council Act* does not apply to a deed or contract that is executed under a delegation made under this section.

REPORTS AND INFORMATION**Reports and information to Minister**

56 Every service provider and lead agency shall,

- (a) make the prescribed reports and provide the prescribed information, including personal information, to the Minister, in the prescribed form and at the prescribed intervals; and
- (b) make a report and provide information, including personal information, to the Minister whenever the Minister requests it.

Reports and information to prescribed entities

57 Every service provider and lead agency shall provide the prescribed reports and the prescribed information to the prescribed entities in the prescribed manner.

Information available to the public

58 Every service provider and lead agency shall make the prescribed information available to the public in the prescribed manner.

PROGRAM SUPERVISOR INSPECTIONS**Inspection by program supervisor without a warrant**

59 (1) For the purpose of determining compliance with this Act, the regulations and the directives issued under this Act, a program supervisor may, at any reasonable time and without a warrant or notice, enter the following premises in order to conduct an inspection:

1. Premises where a service is provided under this Act.
2. Premises where a lead agency's function referred to in subsection 30 (5) is performed.
3. Business premises of a service provider.
4. Business premises of a lead agency.

Limitation, dwelling

(2) The power to enter and inspect a premises described in subsection (1) shall not be exercised to enter and inspect any room or place actually being used as a dwelling, except with the consent of the occupier.

Identification

(3) A program supervisor conducting an inspection shall, upon request, produce proper identification.

Application of other provisions

(4) Sections 276 (powers on inspection) and 279 (admissibility of certain documents) apply with necessary modifications with respect to an inspection conducted under this section.

Inspection by program supervisor with a warrant

60 (1) A program supervisor may, without notice, apply to a justice for a warrant under this section.

Issuance of warrant

(2) A justice may issue a warrant authorizing a program supervisor named in the warrant to enter the premises specified in the warrant and to exercise any of the powers mentioned in subsection 276 (1), if the justice is satisfied on information under oath or affirmation,

- (a) that the premises is a premises described in subsection 59 (1);
- (b) in the case of a premises that is not used as a dwelling,
 - (i) that the program supervisor has been prevented from exercising a right of entry to the premises under section 59 or a power under subsection 276 (1), or
 - (ii) that there are reasonable grounds to believe that the program supervisor will be prevented from exercising a right of entry to the premises under section 58 or a power under subsection 276 (1); and
- (c) in the case of a premises that is used as a dwelling,
 - (i) that,

- (A) the program supervisor believes on reasonable grounds that a service being provided, or the manner of providing it, is causing harm or is likely to cause harm to a person's health, safety or well-being as a result of non-compliance with this Act, the regulations or the directives issued under this Act, and
- (B) it is necessary for the program supervisor to exercise the powers mentioned in subsection 276 (1) in order to inspect the service or the manner of providing it, or

(ii) that a ground exists that is prescribed for the purposes of this subclause.

Expert help

(3) The warrant may authorize persons who have special, expert or professional knowledge to accompany and assist the program supervisor in the execution of the warrant.

Expiry of warrant

(4) A warrant issued under this section shall name a date on which it expires, which shall be no later than 30 days after the warrant is issued.

Extension of time

(5) A justice may extend the date on which a warrant issued under this section expires for an additional period of no more than 30 days, upon application without notice by the program supervisor named in the warrant.

Use of force

(6) A program supervisor named in a warrant issued under this section may use whatever force is necessary to execute the warrant and may call upon a peace officer for assistance in executing the warrant.

Time of execution

(7) A warrant issued under this section may be executed between 8 a.m. and 8 p.m. only, unless the warrant specifies otherwise.

Other matters

(8) Subsections 276 (2) to (7) and section 279 apply with necessary modifications with respect to the exercise of powers referred to in subsection (2) under a warrant issued under this section.

Definition

(9) In this section,

“justice” means a provincial judge or a justice of the peace.

Inspection report

61 (1) After completing an inspection, a program supervisor shall prepare an inspection report and give a copy of the report to,

- (a) a Director;
- (b) the service provider or lead agency; and
- (c) any other prescribed person.

All non-compliance to be documented

(2) If a program supervisor finds that a service provider or lead agency has not complied with a requirement of this Act, the regulations or a directive issued under this Act, the program supervisor shall document the non-compliance in the inspection report.

REVIEW BY RESIDENTIAL PLACEMENT ADVISORY COMMITTEE

Definitions

62 In sections 63 to 66,

“advisory committee” means a residential placement advisory committee established under subsection 63 (1); (“comité consultatif”)

“institution” means,

- (a) a children's residence, other than a maternity home, operated by the Minister or under the authority of a licence issued under Part IX (Residential Licensing) in which residential care can be provided to 10 or more children at a time, or
- (b) a building, group of buildings or part of a building, designated by a Director, in which residential care can be provided to 10 or more children at a time; (“foyer”)

“residential placement” does not include,

- (a) a placement made under the *Youth Criminal Justice Act* (Canada) or under Part VI (Youth Justice),
- (b) commitment to a secure treatment program under Part VII (Extraordinary Measures), or
- (c) a placement with a person who is neither a service provider nor a foster parent; (“placement en établissement”)

“special need” means a need that is related to or caused by a developmental disability or a behavioural, emotional, physical, mental or other disability. (“besoin particulier”)

Residential placement advisory committees

63 (1) The Minister may establish residential placement advisory committees and shall specify the territorial jurisdiction of each advisory committee.

Composition

(2) Each residential placement advisory committee shall consist of persons whom the Minister considers appropriate, which may include,

- (a) persons engaged in providing services;
- (b) other persons who have demonstrated an informed concern for the welfare of children;
- (c) one representative of the Ministry; and
- (d) if the Minister wishes, a representative of a band or First Nations, Inuit or Métis community.

Payments to members, hiring of staff

(3) The Minister may pay allowances and reasonable travelling expenses to the members of an advisory committee, and may authorize an advisory committee to hire support staff.

Duties of advisory committee

(4) An advisory committee has a duty to advise, inform and assist parents, children and service providers with respect to the availability and appropriateness of residential care and alternatives to residential care, to conduct reviews under section 64 and to name persons for the purpose of subsection 75 (11) (contact with child under temporary care agreement), and has such further duties as are prescribed.

Reports to Minister

(5) An advisory committee shall make a report of its activities to the Minister annually and at any other time requested by the Minister.

Review by advisory committee

Mandatory review

64 (1) An advisory committee shall review,

- (a) every residential placement in an institution of a child who resides within the advisory committee’s jurisdiction, if the residential placement is intended to last or actually lasts 90 days or more,
 - (i) as soon as possible, but no later than 45 days after the day on which the child is placed in the institution,
 - (ii) unless the residential placement is reviewed under subclause (i), within 12 months of the establishment of the advisory committee or within such longer period as the Minister allows, and
 - (iii) while the residential placement continues, at least once during each nine-month period after the review under subclause (i) or (ii);
- (b) every residential placement of a child who objects to the residential placement and resides within the advisory committee’s jurisdiction,
 - (i) within the week immediately following the day that is 14 days after the child is placed, and
 - (ii) while the residential placement continues, at least once during each nine-month period after the review under subclause (i); and
- (c) an existing or proposed residential placement of a child that the Minister refers to the advisory committee, within 30 days of the referral.

Discretionary review

(2) An advisory committee may at any time review or re-review, on a person’s request or on its own initiative, an existing or proposed residential placement of a child who resides within the advisory committee’s jurisdiction.

Review to be informal, etc.

(3) An advisory committee shall conduct a review under this section in an informal manner and in the absence of the public, and in the course of the review may,

- (a) interview the child, members of the child's family and any representatives of the child and family;
- (b) interview persons engaged in providing services and other persons who may have an interest in the matter or may have information that would assist the advisory committee;
- (c) examine documents and reports that are presented to the committee; and
- (d) examine records relating to the child and members of the child's family that are disclosed to the committee.

Service providers to assist advisory committee

(4) At an advisory committee's request, a service provider shall assist and co-operate with the advisory committee in its conduct of a review.

Matters to be considered

(5) In conducting a review, an advisory committee shall,

- (a) consider whether the child has a special need;
- (b) consider the child's views and wishes, given due weight in accordance with the child's age and maturity;
- (c) consider what programs are available for the child in the residential placement or proposed residential placement, and whether a program available to the child is likely to benefit the child;
- (d) consider whether the residential placement or proposed residential placement is appropriate for the child in the circumstances;
- (e) if it considers that a less restrictive alternative to the residential placement would be more appropriate for the child in the circumstances, specify that alternative;
- (f) consider the importance of continuity in the child's care and the possible effect on the child of disruption of that continuity; and
- (g) in the case of a First Nations, Inuk or Métis child, also consider the importance, in recognition of the uniqueness of First Nations, Inuit and Métis cultures, heritages and traditions, of preserving the child's cultural identity and connection to community.

Advisory committee's recommendations**Persons to be advised**

65 (1) An advisory committee that conducts a review shall advise the following persons of its recommendations as soon as the review has been completed:

- 1. The service provider.
- 2. Any representative of the child.
- 3. The child's parent or, where the child is in a society's lawful custody, the society.
- 4. The child, in language suitable to the child's understanding.
- 5. In the case of a First Nations, Inuk or Métis child, the persons described in paragraphs 1, 2, 3 and 4 and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Child to be advised of right to review by Board of residential placement

(2) An advisory committee that conducts a review shall advise the child of the child's right to a further review under section 66.

Report to Minister

(3) An advisory committee that conducts a review shall, within 30 days of completing the review, make a report of its findings and recommendations to the Minister.

Recommendation for less restrictive service

(4) Where an advisory committee considers that the provision of a less restrictive service to a child would be more appropriate for the child than the residential placement, the advisory committee shall recommend in its report under subsection (3) that the less restrictive service be provided to the child.

Review by Board**Child may request review**

66 (1) A child who is in a residential placement to which the child objects may apply to the Board for a determination of where the child should remain or be placed, if the residential placement has been reviewed by an advisory committee under section 64 and,

- (a) the child is dissatisfied with the advisory committee's recommendations; or
- (b) the advisory committee's recommendations are not followed.

Board to conduct review

(2) The Board shall conduct a review with respect to an application made under subsection (1) and may do so by holding a hearing.

Notice to child of hearing

(3) The Board shall advise the child whether it intends to hold a hearing or not within 10 days of receiving the child's application.

Parties

(4) The parties to a hearing under this section are,

- (a) the child;
- (b) the child's parent or, where the child is in a society's lawful custody, the society;
- (c) in the case of a First Nations, Inuk or Métis child, the persons described in clauses (a) and (b) and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities; and
- (d) any other persons that the Board specifies.

Time for determination

(5) The Board shall complete its review and make a determination within 30 days of receiving a child's application, unless,

- (a) the Board holds a hearing with respect to the application; and
- (b) the parties consent to a longer period for the Board's determination.

Board's order

(6) After conducting a review under subsection (2), the Board may,

- (a) order that the child be transferred to another residential placement, if the Board is satisfied that the other residential placement is available;
- (b) order that the child be discharged from the residential placement; or
- (c) confirm the existing residential placement.

OFFENCES**Offences**

67 (1) A person or entity is guilty of an offence if the person or entity,

- (a) contravenes section 56 (reports and information);
- (b) contravenes section 57 (reports and information to prescribed entities);
- (c) contravenes section 58 (information available to public);
- (d) knowingly provides false information in a statement, report or return required to be provided under this Part or the regulations.

Penalty

(2) A person or entity convicted of an offence under subsection (1) is liable to a fine of not more than \$5,000.

Offence — obstruction of program supervisor

(3) A person is guilty of an offence if the person hinders, obstructs or interferes with a program supervisor conducting an inspection under this Part, or otherwise impedes a program supervisor in exercising the powers or performing the duties of a program supervisor under this Part.

Penalty

(4) A person convicted of an offence under subsection (3) is liable to a fine of not more than \$5,000.

Limitation

(5) A proceeding in respect of an offence under subsection (1) or (3) shall not be commenced more than two years after the day on which evidence of the offence first came to the knowledge of the Director or program supervisor.

Directors, officers and employees

(6) If a corporation commits an offence under this section, a director, officer or employee of the corporation who authorized, permitted or concurred in the commission of the offence is also guilty of the offence.

**PART IV
FIRST NATIONS, INUIT AND MÉTIS CHILD AND FAMILY SERVICES**

Regulations listing First Nations, Inuit and Métis communities

68 (1) The Minister may make regulations establishing lists of First Nations, Inuit and Métis communities for the purposes of this Act.

More than one community

(2) A regulation made under subsection (1) may list one or more communities as a First Nations, Inuit or Métis community.

Consent of representatives

(3) Before making a regulation under subsection (1), the Minister must obtain the consent of the community's representatives.

Agreements with bands and First Nations, Inuit or Métis communities

69 The Minister may, for the provision of services,

- (a) make agreements with bands and First Nations, Inuit or Métis communities and with any other parties whom the bands or communities choose to involve; and
- (b) provide funding to the persons or entities referred to in clause (a) pursuant to such agreements.

Designation of child and family service authority

70 (1) A band or First Nations, Inuit or Métis community may designate a body as a First Nations, Inuit or Métis child and family service authority.

Agreements, etc.

(2) Where a band or First Nations, Inuit or Métis community has designated a First Nations, Inuit or Métis child and family service authority, the Minister,

- (a) shall, at the band's or community's request, enter into negotiations for the provision of services by the child and family service authority;
- (b) may enter into agreements with the child and family service authority and, if the band or community agrees, any other person, for the provision of services; and
- (c) may designate the child and family service authority, with its consent, as a society under subsection 34 (1).

Subsidy for customary care

71 If a band or First Nations, Inuit or Métis community declares that a First Nations, Inuit or Métis child is being cared for under customary care, a society or entity may grant a subsidy to the person caring for the child.

Consultation with bands and First Nations, Inuit or Métis communities

72 A society, person or entity that provides services or exercises powers under this Act with respect to First Nations, Inuit or Métis children or young persons shall regularly consult with their bands and First Nations, Inuit or Métis communities about the provision of the services or the exercise of the powers and about matters affecting the children or young persons, including,

- (a) bringing children to a place of safety and the placement of children in residential care;
- (b) the provision of family support services;
- (c) the preparation of plans for the care of children;
- (d) status reviews under Part V (Child Protection);
- (e) temporary care agreements under Part V (Child Protection);
- (f) society agreements with 16 and 17 year olds under Part V (Child Protection);
- (g) adoption placements;
- (h) the establishment of emergency houses; and

- (i) any other matter that is prescribed.

Consultation in specified cases

73 A society, person or entity that proposes to provide a prescribed service to a First Nations, Inuk or Métis child or young person, or to exercise a prescribed power under this Act in relation to such a child or young person, shall consult with a representative chosen by each of the child's or young person's bands and First Nations, Inuit or Métis communities in accordance with the regulations.

PART V CHILD PROTECTION

INTERPRETATION

Interpretation

Definitions

74 (1) In this Part,

“child protection worker” means a Director, a local director or a person who meets the prescribed requirements and who is authorized by a Director or local director for the purposes of section 81 (commencing child protection proceedings) and for other prescribed purposes; (“préposé à la protection de l’enfance”)

“extra-provincial child protection order” means a temporary or final order made by a court of another province or a territory of Canada, or of a prescribed jurisdiction outside Canada if it meets prescribed conditions, pursuant to child welfare legislation of that province, territory or other jurisdiction, placing a child into the care and custody of a child welfare authority or other person named in the order; (“ordonnance extraprovinciale de protection d’un enfant”)

“parent”, when used in reference to a child, means each of the following persons, but does not include a foster parent:

1. A parent of the child under section 6, 8, 9, 10, 11 or 13 of the *Children's Law Reform Act*.
2. In the case of a child conceived through sexual intercourse, an individual described in one of paragraphs 1 to 5 of subsection 7 (2) of the *Children's Law Reform Act*, unless it is proved on a balance of probabilities that the sperm used to conceive the child did not come from the individual.
3. An individual who has been found or recognized by a court of competent jurisdiction outside Ontario to be a parent of the child.
4. In the case of an adopted child, a parent of the child as provided for under section 217 or 218.
5. An individual who has lawful custody of the child.
6. An individual who, during the 12 months before intervention under this Part, has demonstrated a settled intention to treat the child as a child of the individual's family, or has acknowledged parentage of the child and provided for the child's support.
7. An individual who, under a written agreement or a court order, is required to provide for the child, has custody of the child or has a right of access to the child.
8. An individual who acknowledged parentage of the child by filing a statutory declaration under section 12 of the *Children's Law Reform Act* as it read before the day subsection 1 (1) of the *All Families Are Equal Act (Parentage and Related Registrations Statute Law Amendment), 2016* came into force; (“parent”)

“place of safety” means a foster home, a hospital, a person's home that satisfies the requirements of subsection (4) or a place or one of a class of places designated as a place of safety by a Director or local director under section 39, but does not include a place of temporary detention, of open custody or of secure custody; (“lieu sûr”)

Child in need of protection

(2) A child is in need of protection where,

- (a) the child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person's,
 - (i) failure to adequately care for, provide for, supervise or protect the child, or
 - (ii) pattern of neglect in caring for, providing for, supervising or protecting the child;
- (b) there is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
 - (i) failure to adequately care for, provide for, supervise or protect the child, or
 - (ii) pattern of neglect in caring for, providing for, supervising or protecting the child;

- (c) the child has been sexually abused or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual abuse or sexual exploitation and fails to protect the child;
- (d) there is a risk that the child is likely to be sexually abused or sexually exploited as described in clause (c);
- (e) the child requires treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or, where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996* and the parent is a substitute decision-maker for the child, the parent refuses or is unavailable or unable to consent to the treatment on the child's behalf;
- (f) the child has suffered emotional harm, demonstrated by serious,
 - (i) anxiety,
 - (ii) depression,
 - (iii) withdrawal,
 - (iv) self-destructive or aggressive behaviour, or
 - (v) delayed development,
 and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;
- (g) the child has suffered emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to the treatment to remedy or alleviate the harm;
- (h) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;
- (i) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) and that the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to treatment to prevent the harm;
- (j) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide treatment or access to treatment, or where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to the treatment to remedy or alleviate the condition;
- (k) the child's parent has died or is unavailable to exercise custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody;
- (l) the child is younger than 12 and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to treatment;
- (m) the child is younger than 12 and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately;
- (n) the child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is 12 or older, with the child's consent, for the matter to be dealt with under this Part; or
- (o) the child is 16 or 17 and a prescribed circumstance or condition exists.

Best interests of child

- (3) Where a person is directed in this Part to make an order or determination in the best interests of a child, the person shall,
 - (a) consider the child's views and wishes, given due weight in accordance with the child's age and maturity, unless they cannot be ascertained;
 - (b) in the case of a First Nations, Inuk or Métis child, consider the importance, in recognition of the uniqueness of First Nations, Inuit and Métis cultures, heritages and traditions, of preserving the child's cultural identity and connection to community, in addition to the considerations under clauses (a) and (c); and

(c) consider any other circumstance of the case that the person considers relevant, including,

- (i) the child's physical, mental and emotional needs, and the appropriate care or treatment to meet those needs,
- (ii) the child's physical, mental and emotional level of development,
- (iii) the child's race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity and gender expression,
- (iv) the child's cultural and linguistic heritage,
- (v) the importance for the child's development of a positive relationship with a parent and a secure place as a member of a family,
- (vi) the child's relationships and emotional ties to a parent, sibling, relative, other member of the child's extended family or member of the child's community,
- (vii) the importance of continuity in the child's care and the possible effect on the child of disruption of that continuity,
- (viii) the merits of a plan for the child's care proposed by a society, including a proposal that the child be placed for adoption or adopted, compared with the merits of the child remaining with or returning to a parent,
- (ix) the effects on the child of delay in the disposition of the case,
- (x) the risk that the child may suffer harm through being removed from, kept away from, returned to or allowed to remain in the care of a parent, and
- (xi) the degree of risk, if any, that justified the finding that the child is in need of protection.

Place of safety

(4) For the purposes of the definition of "place of safety" in subsection (1), a person's home is a place of safety for a child if,

- (a) the person is a relative of the child or a member of the child's extended family or community; and
- (b) a society or, in the case of a First Nations, Inuk or Métis child, a society or a child and family service authority, has conducted an assessment of the person's home in accordance with the prescribed procedures and is satisfied that the person is willing and able to provide a safe home environment for the child.

Definition, child and family service authority

(5) In subsection (4),

"child and family service authority" means a First Nations, Inuit or Métis child and family service authority designated under section 70.

VOLUNTARY AGREEMENTS

Temporary care agreement

75 (1) A person who is temporarily unable to care adequately for a child in the person's custody, and the society having jurisdiction where the person resides, may make a written agreement for the society's care and custody of the child.

Older child to be party to agreement

(2) No temporary care agreement shall be made in respect of a child who is 12 or older unless the child is a party to the agreement.

Exception: developmental disability

(3) Subsection (2) does not apply where it has been determined on the basis of an assessment not more than one year before the agreement is made, that the child does not have capacity to participate in the agreement because of a developmental disability.

Duty of society

(4) A society shall not make a temporary care agreement unless the society,

- (a) has determined that an appropriate residential placement that is likely to benefit the child is available; and
- (b) is satisfied that no course of action less disruptive to the child, such as care in the child's own home, is able to adequately protect the child.

Term of agreement limited

(5) No temporary care agreement shall be made for a term exceeding six months, but the parties to a temporary care agreement may, with a Director's written approval, agree to extend it for a further period or periods if the total term of the agreement, as extended, does not exceed 12 months.

Time limit

(6) No temporary care agreement shall be made or extended so as to result in a child being in a society's care and custody, for a period exceeding,

- (a) 12 months, if the child is younger than 6 on the day the agreement is entered into or extended; or
- (b) 24 months, if the child is 6 or older on the day the agreement is entered into or extended.

Calculating time in care

(7) The time during which a child has been in a society's care and custody pursuant to the following shall be counted in calculating the period referred to in subsection (6):

1. An interim society care order made under paragraph 2 of subsection 101 (1).
2. A temporary care agreement under subsection (1) of this section.
3. A temporary order made under clause 94 (2) (d).

Previous periods to be counted

(8) The period referred to in subsection (6) shall include any previous periods that the child was in a society's care and custody as described in subsection (7) other than periods that precede a continuous period of five or more years that the child was not in a society's care and custody.

Authority to consent to medical treatment may be transferred

(9) A temporary care agreement may provide that, where the child is found incapable of consenting to treatment under the *Health Care Consent Act, 1996*, the society is entitled to act in the place of a parent in providing consent to treatment on the child's behalf.

Contents of temporary care agreement

(10) A temporary care agreement shall include the following:

1. A statement by all the parties to the agreement that the child's care and custody are transferred to the society.
2. A statement by all the parties to the agreement that the child's placement is voluntary.
3. A statement, by the person referred to in subsection (1), that the person is temporarily unable to care for the child adequately and has discussed with the society alternatives to residential placement of the child.
4. An undertaking by the person referred to in subsection (1) to maintain contact with the child and be involved in the child's care.
5. If it is not possible for the person referred to in subsection (1) to maintain contact with the child and be involved in the child's care, the person's designation of another person who is willing to do so.
6. The name of the individual who is the primary contact between the society and the person referred to in subsection (1).
7. Such other provisions as are prescribed.

Designation by advisory committee

(11) Where the person referred to in subsection (1) does not give an undertaking under paragraph 4 of subsection (10) or designate another person under paragraph 5 of subsection (10), a residential placement advisory committee established under subsection 63 (1) that has jurisdiction may, in consultation with the society, name a suitable person who is willing to maintain contact with the child and be involved in the child's care.

Variation of agreement

(12) The parties to a temporary care agreement may vary the agreement from time to time in a manner that is consistent with this Part and the regulations made under it.

Agreement expires at 18

(13) No temporary care agreement shall continue beyond the 18th birthday of the person who is its subject.

Notice of termination of agreement

76 (1) A party to a temporary care agreement may terminate the agreement at any time by giving every other party written notice that the party wishes to terminate the agreement.

When notice takes effect

(2) Where notice is given under subsection (1), the agreement terminates on the expiry of five days, or such longer period not exceeding 21 days as the agreement specifies, after the day on which every other party has actually received the notice.

Society response to notice of termination

(3) Where notice of a wish to terminate a temporary care agreement is given by or to a society under subsection (1), the society shall as soon as possible, and in any event before the agreement terminates under subsection (2),

- (a) cause the child to be returned to the person who made the agreement, or to a person who has obtained an order for the child's custody since the agreement was made;
- (b) where the society is of the opinion that the child would be in need of protection if returned to the person referred to in clause (a), bring the child before the court under this Part to determine whether the child would be in need of protection in that case; or
- (c) where the child is 16 or 17 and the criteria set out in clauses 77 (1) (a), (b), (c) and (d) are met, make a written agreement with the child under subsection 77 (1).

Expiry of agreement

(4) Where a temporary care agreement expires or is about to expire and is not extended, the society shall, before the agreement expires or as soon as practicable thereafter, but in any event within 21 days after the agreement expires,

- (a) cause the child to be returned to the person who made the agreement, or to a person who has obtained an order for the child's custody since the agreement was made;
- (b) where the society is of the opinion that the child would be in need of protection if returned to the person referred to in clause (a), bring the child before the court under this Part to determine whether the child would be in need of protection in that case; or
- (c) where the child is 16 or 17 and the criteria set out in clauses 77 (1) (a), (b), (c) and (d) are met, make a written agreement with the child under subsection 77 (1).

Society agreements with 16 and 17 year olds

77 (1) The society and a child who is 16 or 17 may make a written agreement for services and supports to be provided for the child where,

- (a) the society has jurisdiction where the child resides;
- (b) the society has determined that the child is or may be in need of protection;
- (c) the society is satisfied that no course of action less disruptive to the child, such as care in the child's own home or with a relative, neighbour or other member of the child's community or extended family, is able to adequately protect the child; and
- (d) the child wants to enter into the agreement.

Term of agreement

(2) The agreement may be for a period not exceeding 12 months, but may be renewed if the total term of the agreement, as extended, does not exceed 24 months.

Previous or current involvement with society not a bar to agreement

(3) A child may enter into an agreement under this section regardless of any previous or current involvement with a society, and without regard to any time during which the child has been in a society's care pursuant to an agreement made under section 75 (1) or pursuant to an order made under clause 94 (2) (d) or paragraph 2 or 3 of subsection 101 (1).

Notice of termination of agreement

(4) A party to an agreement made under this section may terminate the agreement at any time by giving every other party written notice that the party wishes to terminate the agreement.

Agreement expires at 18

(5) No agreement made under this section shall continue beyond the 18th birthday of the person who is its subject.

Current agreements and orders must be terminated first

(6) Despite subsection (3), an agreement may not come into force under this section until any temporary care agreement under section 75 or order for the care or supervision of a child under this Part is terminated.

Representation by Children's Lawyer

(7) The Children's Lawyer may provide legal representation to the child entering into an agreement under this section if, in the opinion of the Children's Lawyer, such legal representation is appropriate.

LEGAL REPRESENTATION

Legal representation of child

78 (1) A child may have legal representation at any stage in a proceeding under this Part.

Court to consider issue

(2) Where a child does not have legal representation in a proceeding under this Part, the court,

- (a) shall, as soon as practicable after the commencement of the proceeding; and
- (b) may, at any later stage in the proceeding,

determine whether legal representation is desirable to protect the child's interests.

Direction for legal representation

(3) Where the court determines that legal representation is desirable to protect a child's interests, the court shall direct that legal representation be provided for the child.

Criteria

(4) Where,

- (a) the court is of the opinion that there is a difference of views between the child and a parent or a society, and the society proposes that the child be removed from a person's care or be placed in interim or extended society care under paragraph 2 or 3 of subsection 101 (1);
- (b) the child is in the society's care and,
 - (i) no parent appears before the court, or
 - (ii) it is alleged that the child is in need of protection within the meaning of clause 74 (2) (a), (c), (f), (g) or (j); or
- (c) the child is not permitted to be present at the hearing,

legal representation is deemed to be desirable to protect the child's interests, unless the court is satisfied, taking into account the child's views and wishes, given due weight in accordance with the child's age and maturity, that the child's interests are otherwise adequately protected.

Where parent a minor

(5) Where a child's parent is younger than 18, the Children's Lawyer shall represent the parent in a proceeding under this Part unless the court orders otherwise.

PARTIES AND NOTICE

Parties

79 (1) The following are parties to a proceeding under this Part:

- 1. The applicant.
- 2. The society having jurisdiction in the matter.
- 3. The child's parent.
- 4. In the case of a First Nations, Inuk or Métis child, the persons described in paragraphs 1, 2 and 3 and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Director to be added

(2) At any stage in a proceeding under this Part, the court shall add a Director as a party on the Director's motion.

Right to participate

(3) Any person, including a foster parent, who has cared for the child continuously during the six months immediately before the hearing,

- (a) is entitled to the same notice of the proceeding as a party;
- (b) may be present at the hearing;
- (c) may be represented by a lawyer; and
- (d) may make submissions to the court,

but shall take no further part in the hearing without leave of the court.

Child 12 or older

(4) A child 12 or older who is the subject of a proceeding under this Part is entitled to receive notice of the proceeding and to be present at the hearing, unless the court is satisfied that being present at the hearing would cause the child emotional harm and orders that the child not receive notice of the proceeding and not be permitted to be present at the hearing.

Child younger than 12

(5) A child younger than 12 who is the subject of a proceeding under this Part is not entitled to receive notice of the proceeding or to be present at the hearing unless the court is satisfied that the child,

- (a) is capable of understanding the hearing; and
- (b) will not suffer emotional harm by being present at the hearing,

and orders that the child receive notice of the proceeding and be permitted to be present at the hearing.

Child's participation

(6) A child who is the applicant under subsection 113 (4) or 115 (4) (status review), receives notice of a proceeding under this Part or has legal representation in a proceeding is entitled to participate in the proceeding and to appeal under section 121 as if the child were a party.

Dispensing with notice

(7) Where the court is satisfied that the time required for notice to a person might endanger the child's health or safety, the court may dispense with notice to that person.

CUSTOMARY CARE**Customary care**

80 A society shall make all reasonable efforts to pursue a plan for customary care for a First Nations, Inuk or Métis child if the child,

- (a) is in need of protection;
- (b) cannot remain in or be returned to the care and custody of the person who had charge of the child immediately before intervention under this Part or, where there is an order for the child's custody that is enforceable in Ontario, of the person entitled to custody under the order; and
- (c) is a member of or identifies with a band, or is a member of or identifies with a First Nations, Inuit or Métis community.

COMMENCING CHILD PROTECTION PROCEEDINGS**Warrants, orders, etc.****Application**

81 (1) A society may apply to the court to determine whether a child is in need of protection.

Warrant to bring child to place of safety

(2) A justice of the peace may issue a warrant authorizing a child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a child protection worker's sworn information that there are reasonable and probable grounds to believe that,

- (a) the child is younger than 16;
- (b) the child is in need of protection; and
- (c) a less restrictive course of action is not available or will not protect the child adequately.

When warrant may not be refused

(3) A justice of the peace shall not refuse to issue a warrant under subsection (2) by reason only that the child protection worker may bring the child to a place of safety under subsection (7).

Order to produce child or bring child to place of safety

(4) Where the court is satisfied, on a person's application upon notice to a society, that there are reasonable and probable grounds to believe that,

- (a) a child is in need of protection, the matter has been reported to the society, the society has not made an application under subsection (1), and no child protection worker has sought a warrant under subsection (2) or brought the child to a place of safety under subsection (7); and
- (b) the child cannot be protected adequately otherwise than by being brought before the court.

the court may order,

- (c) that the person having charge of the child produce the child before the court at the time and place named in the order for a hearing under subsection 90 (1) to determine whether the child is in need of protection; or
- (d) where the court is satisfied that an order under clause (c) would not protect the child adequately, that a child protection worker employed by the society bring the child to a place of safety.

Child's name, location not required

(5) It is not necessary, in an application under subsection (1), a warrant under subsection (2) or an order made under subsection (4), to describe the child by name or to specify the premises where the child is located.

Authority to enter, etc.

(6) A child protection worker authorized to bring a child to a place of safety by a warrant issued under subsection (2) or an order made under clause (4) (d) may at any time enter any premises specified in the warrant or order, by force if necessary, and may search for and remove the child.

Bring child to place of safety without warrant

(7) A child protection worker who believes on reasonable and probable grounds that,

- (a) a child is in need of protection;
- (b) the child is younger than 16; and
- (c) there would be a substantial risk to the child's health or safety during the time necessary to bring the matter on for a hearing under subsection 90 (1) or obtain a warrant under subsection (2),

may without a warrant bring the child to a place of safety.

Police assistance

(8) A child protection worker acting under this section may call for the assistance of a peace officer.

Consent to examine child

(9) A child protection worker acting under subsection (7) or under a warrant issued under subsection (2) or an order made under clause (4) (d) may authorize the child's medical examination where a parent's consent would otherwise be required.

Right of entry, etc.

(10) A child protection worker who believes on reasonable and probable grounds that a child referred to in subsection (7) is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Regulations re power of entry

(11) A child protection worker authorized to enter premises under subsection (6) or (10) shall exercise the power of entry in accordance with the regulations.

Peace officer has powers of child protection worker

(12) Subsections (2), (6), (7), (10) and (11) apply to a peace officer as if the peace officer were a child protection worker.

Protection from personal liability

(13) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or for an alleged neglect or default in the execution in good faith of that duty.

Exception, 16 and 17 year olds brought to place of safety with consent

82 (1) A child protection worker may bring a child who is 16 or 17 and who is subject to a temporary or final supervision order to a place of safety if the child consents.

Temporary or final supervision order

(2) In this section,

"temporary or final supervision order" means an order under clause 94 (2) (b) or (c), paragraph 1 or 4 of subsection 101 (1), subsection 112 (8) or 115 (10) or clause 116 (1) (a).

SPECIAL CASES OF BRINGING CHILDREN TO A PLACE OF SAFETY

Bringing children who are removed from or leave care to place of safety

With warrant

83 (1) A justice of the peace may issue a warrant authorizing a child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a child protection worker's sworn information that,

- (a) the child is actually or apparently younger than 16, and,
 - (i) has left or been removed from a society's lawful care and custody without its consent, or
 - (ii) is the subject of an extra-provincial child protection order and has left or been removed from the lawful care and custody of the child welfare authority or other person named in the order; and
- (b) there are reasonable and probable grounds to believe that there is no course of action available other than bringing the child to a place of safety that would adequately protect the child.

When warrant may not be refused

(2) A justice of the peace shall not refuse to issue a warrant to a person under subsection (1) by reason only that the person may bring the child to a place of safety under subsection (4).

No need to specify premises

(3) It is not necessary in a warrant under subsection (1) to specify the premises where the child is located.

Without warrant

(4) A peace officer or child protection worker may without a warrant bring the child to a place of safety if the peace officer or child protection worker believes on reasonable and probable grounds that,

- (a) the child is actually or apparently younger than 16, and,
 - (i) has left or been removed from a society's lawful care and custody without its consent, or
 - (ii) is the subject of an extra-provincial child protection order and has left or been removed from the lawful care and custody of the child welfare authority or other person named in the order; and
- (b) there would be a substantial risk to the child's health or safety during the time necessary to obtain a warrant under subsection (1).

Bringing child younger than 12 home or to place of safety

84 (1) A peace officer who believes on reasonable and probable grounds that a child actually or apparently younger than 12 has committed an act in respect of which a person 12 or older could be found guilty of an offence may bring the child to a place of safety without a warrant and on doing so,

- (a) shall return the child to the child's parent or other person having charge of the child as soon as practicable; or
- (b) where it is not possible to return the child to the parent or other person within a reasonable time, shall bring the child to a place of safety until the child can be returned to the parent or other person.

Notice to parent, etc.

(2) The person in charge of a place of safety in which a child is detained under subsection (1) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child not returned to parent, etc., within 12 hours

(3) Where a child brought to a place of safety under subsection (1) cannot be returned to the child's parent or other person having charge of the child within 12 hours of being brought to the place of safety, the child is deemed to have been brought to a place of safety under subsection 81 (7) and not under subsection (1).

Children who withdraw from parent's care**Warrant to bring child to a place of safety**

85 (1) A justice of the peace may issue a warrant authorizing a peace officer or child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of the sworn information of a person that,

- (a) the child is younger than 16;
- (b) the child has withdrawn from the person's care and control without the person's consent; and
- (c) the person believes on reasonable and probable grounds that the child's health or safety may be at risk if the child is not brought to a place of safety.

Child to be returned or brought to a place of safety

(2) A person acting under a warrant issued under subsection (1) shall return the child to the person with care and control of the child as soon as practicable and where it is not possible to return the child to that person within a reasonable time, bring the child to a place of safety.

Notice to person with care, custody or control

(3) The person in charge of a place of safety to which a child is brought under subsection (2) shall make reasonable efforts to notify the person with care and control of the child that the child is in the place of safety so that the child may be returned to that person.

Where child not returned within 12 hours

(4) Where a child brought to a place of safety under subsection (2) cannot be returned to the person with care and control of the child within 12 hours of being brought to the place of safety, the child is deemed to have been brought to a place of safety under subsection 81 (2) and not under subsection (1).

Where custody enforcement proceedings more appropriate

(5) A justice of the peace shall not issue a warrant under subsection (1) in respect of a child who has withdrawn from the care and control of a person where a proceeding under section 36 of the *Children's Law Reform Act* would be more appropriate.

No need to specify premises

(6) It is not necessary in a warrant under subsection (1) to specify the premises where the child is located.

Child protection proceedings

(7) Where a peace officer or child protection worker believes on reasonable and probable grounds that a child brought to a place of safety under this section is in need of protection and there may be a substantial risk to the health or safety of the child if the child were returned to the person with care and control of the child,

- (a) the peace officer or child protection worker may bring the child to a place of safety under subsection 81 (7); or
- (b) where the child has been brought to a place of safety under subsection (4), the child is deemed to have been brought there under subsection 81 (7).

Authority to enter, etc.

86 (1) A person authorized to bring a child to a place of safety by a warrant issued under subsection 83 (1) or 85 (1) may at any time enter any premises specified in the warrant, by force, if necessary, and may search for and remove the child

Right of entry, etc.

(2) A person authorized under subsection 83 (4) or 84 (1) who believes on reasonable and probable grounds that a child referred to in the relevant subsection is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Regulations re power of entry

(3) A person authorized to enter premises under this section shall exercise the power of entry in accordance with the regulations.

Police assistance

(4) A child protection worker acting under section 83 or 85 may call for the assistance of a peace officer.

Consent to examine child

(5) Where subsection 84 (3) or 85 (4) applies to a child brought to a place of safety, a child protection worker may authorize the child's medical examination where a parent's consent would be otherwise required.

Protection from personal liability

(6) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or section 83, 84 or 85 or for an alleged neglect or default in the execution in good faith of that duty.

HEARINGS AND ORDERS**Rules re hearings****Definition**

87 (1) In this section,

"media" means the press, radio and television media.

Application

(2) This section applies to hearings held under this Part, except hearings under section 134 (child abuse register).

Hearings separate from criminal proceedings

(3) A hearing shall be held separately from hearings in criminal proceedings.

Hearings private unless court orders otherwise

(4) A hearing shall be held in the absence of the public, subject to subsection (5), unless the court orders that the hearing be held in public after considering,

- (a) the wishes and interests of the parties; and
- (b) whether the presence of the public would cause emotional harm to a child who is a witness at or a participant in the hearing or is the subject of the proceeding.

Media representatives may attend

(5) Media representatives chosen in accordance with subsection (6) may be present at a hearing that is held in the absence of the public, unless the court makes an order excluding them under subsection (7).

Selection of media representatives

(6) The media representatives who may be present at a hearing that is held in the absence of the public shall be chosen as follows:

1. The media representatives in attendance shall choose not more than two persons from among themselves.
2. Where the media representatives in attendance are unable to agree on a choice of persons, the court may choose not more than two media representatives who may be present at the hearing.
3. The court may permit additional media representatives to be present at the hearing.

Order excluding media representatives or prohibiting publication

(7) Where the court is of the opinion that the presence of the media representative or representatives or the publication of the report, as the case may be, would cause emotional harm to a child who is a witness at or a participant in the hearing or is the subject of the proceeding, the court may make an order,

- (a) excluding a particular media representative from all or part of a hearing;
- (b) excluding all media representatives from all or a part of a hearing; or
- (c) prohibiting the publication of a report of the hearing or a specified part of the hearing.

Prohibition re identifying child

(8) No person shall publish or make public information that has the effect of identifying a child who is a witness at or a participant in a hearing or the subject of a proceeding, or the child's parent or foster parent or a member of the child's family.

Prohibition re identifying person charged

(9) The court may make an order prohibiting the publication of information that has the effect of identifying a person charged with an offence under this Part.

Transcript

(10) No person except a party or a party's lawyer shall be given a copy of a transcript of the hearing, unless the court orders otherwise.

Time in place of safety limited

88 As soon as practicable, but in any event within five days after a child is brought to a place of safety under section 81, subclause 83 (1) (a) (ii) or subsection 136 (5),

- (a) the matter shall be brought before a court for a hearing under subsection 90 (1) (child protection hearing);
- (b) the child shall be returned to the person who last had charge of the child or, where there is an order for the child's custody that is enforceable in Ontario, to the person entitled to custody under the order;
- (c) if the child is the subject of an extra-provincial child protection order, the child shall be returned to the child welfare authority or other person named in the order;
- (d) a temporary care agreement shall be made under subsection 75 (1); or
- (e) an agreement shall be made under section 77 (agreements with 16 and 17 year olds).

Time in place of safety limited, 16 or 17 year old

89 As soon as practicable, but in any event within five days after a child who is 16 or 17 is brought to a place of safety with the child's consent under section 82,

- (a) the matter shall be brought before a court for a hearing under subsection 90 (1); or
- (b) the child shall be returned to the person entitled to custody of the child under an order made under this Part.

Child protection hearing

90 (1) Where an application is made under subsection 81 (1) or a matter is brought before the court to determine whether the child is in need of protection, the court shall hold a hearing to determine the issue and make an order under section 101.

Child's name, age, etc.

(2) As soon as practicable, and in any event before determining whether a child is in need of protection, the court shall determine,

- (a) the child's name and age;
- (b) whether the child is a First Nations, Inuk or Métis child and, if so, the child's bands and First Nations, Inuit or Métis communities; and
- (c) where the child was brought to a place of safety before the hearing, the location of the place from which the child was removed.

Territorial jurisdiction

91 (1) In this section,

"territorial jurisdiction" means a society's territorial jurisdiction under subsection 34 (1).

Place of hearing

(2) A hearing under this Part with respect to a child shall be held in the territorial jurisdiction in which the child ordinarily resides, except that,

- (a) where the child is brought to a place of safety before the hearing, the hearing shall be held in the territorial jurisdiction in which the place from which the child was removed is located;
- (b) where the child is in interim society care under an order made under paragraph 2 or 4 of subsection 101 (1) or extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), the hearing shall be held in the society's territorial jurisdiction; and
- (c) where the child is the subject of an order for society supervision under paragraph 1 of subsection 101 (1) or clause 116 (1) (a), the hearing may be held in the society's territorial jurisdiction or in the territorial jurisdiction in which the parent or other person with whom the child is placed resides.

Transfer of proceeding

(3) Where the court is satisfied at any stage of a proceeding under this Part that there is a preponderance of convenience in favour of conducting it in another territorial jurisdiction, the court may order that the proceeding be transferred to that other territorial jurisdiction and be continued as if it had been commenced there.

Orders affecting society

(4) The court shall not make an order placing a child in the care or under the supervision of a society unless the place where the court sits is within the society's territorial jurisdiction.

Power of court

92 The court may, on its own initiative, summon a person to attend before it, testify and produce any document or thing, and may enforce obedience to the summons as if it had been made in a proceeding under the *Family Law Act*.

Evidence**Past conduct toward children**

93 (1) Despite anything in the *Evidence Act*, in any proceeding under this Part,

- (a) the court may consider the past conduct of a person toward any child if that person is caring for or has access to or may care for or have access to a child who is the subject of the proceeding; and
- (b) any oral or written statement or report that the court considers relevant to the proceeding, including a transcript, exhibit or finding or the reasons for a decision in an earlier civil or criminal proceeding, is admissible into evidence.

Evidence re disposition and finding

(2) In a hearing under subsection 90 (1), evidence relating only to the disposition of the matter shall not be considered in determining if the child is in need of protection.

Adjournments

94 (1) The court shall not adjourn a hearing for more than 30 days,

- (a) unless all the parties present and the person who will be caring for the child during the adjournment consent; or
- (b) if the court is aware that a party who is not present at the hearing objects to the longer adjournment.

Custody during adjournment

(2) Where a hearing is adjourned, the court shall make a temporary order for care and custody providing that the child,

- (a) remain in or be returned to the care and custody of the person who had charge of the child immediately before intervention under this Part;
- (b) remain in or be returned to the care and custody of the person referred to in clause (a), subject to the society's supervision and on such reasonable terms and conditions as the court considers appropriate;
- (c) be placed in the care and custody of a person other than the person referred to in clause (a), with the consent of that other person, subject to the society's supervision and on such reasonable terms and conditions as the court considers appropriate; or
- (d) remain or be placed in the care and custody of the society, but not be placed in a place of temporary detention, of open or of secure custody.

Where child is subject to extra-provincial order

(3) Where a court makes an order under clause (2) (d) in the case of a child who is the subject of an extra-provincial child protection order the society may, during the period of the adjournment, return the child to the care and custody of the child welfare authority or other person named in the order.

Criteria

(4) The court shall not make an order under clause (2) (c) or (d) unless the court is satisfied that there are reasonable grounds to believe that there is a risk that the child is likely to suffer harm and that the child cannot be protected adequately by an order under clause (2) (a) or (b).

Placement with relative, etc.

(5) Before making a temporary order for care and custody under clause (2) (d), the court shall consider whether it is in the child's best interests to make an order under clause (2) (c) to place the child in the care and custody of a person who is a relative of the child or a member of the child's extended family or community.

Terms and conditions in order

(6) A temporary order for care and custody of a child under clause (2) (b) or (c) may impose,

- (a) reasonable terms and conditions relating to the child's care and supervision;
- (b) reasonable terms and conditions on the child's parent, the person who will have care and custody of the child under the order, the child and any other person, other than a foster parent, who is putting forward a plan or who would participate in a plan for care and custody of or access to the child; and
- (c) reasonable terms and conditions on the society that will supervise the placement, but shall not require the society to provide financial assistance or to purchase any goods or services.

Application of s. 107

(7) Where the court makes an order under clause (2) (d), section 110 (child in interim society care) applies with necessary modifications.

Access

(8) An order made under clause (2) (c) or (d) may contain provisions regarding any person's right of access to the child on such terms and conditions as the court considers appropriate.

Power to vary

(9) The court may at any time vary or terminate an order made under subsection (2).

Evidence on adjournments

(10) For the purpose of this section, the court may admit and act on evidence that the court considers credible and trustworthy in the circumstances.

Child's views and wishes

(11) Before making an order under subsection (2), the court shall take into consideration the child's views and wishes, given due weight in accordance with the child's age and maturity, unless they cannot be ascertained.

Use of prescribed methods of alternative dispute resolution

95 At any time during a proceeding under this Part, the court may, in the best interests of the child and with the consent of the parties, adjourn the proceeding to permit the parties to attempt through a prescribed method of alternative dispute resolution to resolve any dispute between them with respect to any matter that is relevant to the proceeding.

Delay: court to fix date

96 Where an application is made under subsection 81 (1) or a matter is brought before the court to determine whether a child is in need of protection and the determination has not been made within three months after the commencement of the proceeding, the court,

- (a) shall by order fix a date for the hearing of the application, and the date may be the earliest date that is compatible with the just disposition of the application; and
- (b) may give such directions and make such orders with respect to the proceeding as are just.

Reasons, etc.

97 (1) Where the court makes an order under this Part, the court shall give,

- (a) a statement of any terms or conditions imposed on the order;
- (b) a statement of every plan for the child's care proposed to the court;
- (c) a statement of the plan for the child's care that the court is applying in its decision; and
- (d) reasons for its decision, including,
 - (i) a brief statement of the evidence on which the court bases its decision, and
 - (ii) where the order has the effect of removing or keeping the child from the care of the person who had charge of the child immediately before intervention under this Part, a statement of the reasons why the child cannot be adequately protected while in the person's care.

No requirement to identify person or place

(2) Clause (1) (b) does not require the court to identify a person with whom or a place where it is proposed that a child be placed for care and supervision.

ASSESSMENTS**Order for assessment**

98 (1) In the course of a proceeding under this Part, the court may order that one or more of the following persons undergo an assessment within a specified time by a person appointed in accordance with subsections (3) and (4):

1. The child.
2. A parent of the child.
3. Any other person, other than a foster parent, who is putting forward or would participate in a plan for the care and custody of or access to the child.

Criteria for ordering assessment

(2) An assessment may be ordered if the court is satisfied that,

- (a) an assessment of one or more of the persons specified in subsection (1) is necessary for the court to make a determination under this Part; and
- (b) the evidence sought from an assessment is not otherwise available to the court.

Assessor selected by parties

(3) An order under subsection (1) shall specify a time within which the parties to the proceeding may select a person to perform the assessment and submit the name of the selected person to the court.

Appointment of person selected by parties

(4) The court shall appoint the person selected by the parties to perform the assessment if the court is satisfied that the person meets the following criteria:

1. The person is qualified to perform medical, emotional, developmental, psychological, educational or social assessments.
2. The person has consented to perform the assessment.

Appointment of a person not selected by parties

(5) If the court is of the opinion that the person selected by the parties under subsection (3) does not meet the criteria set out in subsection (4), the court shall select and appoint another person who does meet the criteria.

Regulations

(6) An order under subsection (1) and the assessment required by that order shall comply with such requirements as may be prescribed.

Report

(7) The person performing an assessment under subsection (1) shall make a written report of the assessment to the court within the time specified in the order, which shall not be more than 30 days, unless the court is of the opinion that a longer assessment period is necessary.

Copies of report

(8) At least seven days before the court considers the report at a hearing, the court or, where the assessment was requested by a party, that party, shall provide a copy of the report to,

- (a) the person assessed, subject to subsections (9) and (10);
- (b) the child's lawyer or agent;
- (c) a parent appearing at the hearing, or the parent's lawyer;
- (d) the society caring for or supervising the child;
- (e) a Director, where the Director requests a copy;
- (f) in the case of a First Nations, Inuk or Métis child, the persons described in clauses (a), (b) (c), (d) and (e) and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities; and
- (g) any other person who, in the opinion of the court, should receive a copy of the report for the purposes of the case.

Child younger than 12

(9) Where the person assessed is a child younger than 12, the child shall not receive a copy of the report unless the court considers it desirable that the child receive a copy of the report.

Child 12 or older

(10) Where the person assessed is a child 12 or older, the child shall receive a copy of the report, except that where the court is satisfied that disclosure of all or part of the report to the child would cause the child emotional harm, the court may withhold all or part of the report from the child.

Conflict

(11) Subsections (9) and (10) prevail despite anything in the *Personal Health Information Protection Act, 2004*.

Assessment is evidence

(12) The report of an assessment ordered under subsection (1) is evidence and is part of the court record of the proceeding.

Inference from refusal

(13) The court may draw any inference it considers reasonable from a person's refusal to undergo an assessment ordered under subsection (1).

Report inadmissible

(14) The report of an assessment ordered under subsection (1) is not admissible into evidence in any other proceeding except,

- (a) a proceeding under this Part, including an appeal under section 121;
- (b) a proceeding referred to in section 137;
- (c) a proceeding under Part VIII (Adoption and Adoption Licensing) respecting an application to make, vary or terminate an openness order; or
- (d) a proceeding under the *Coroners Act*,

without the consent of the person or persons assessed.

Consent order: special requirements

99 Where a child is brought before the court on consent as described in clause 74 (2) (n), the court shall, before making an order under section 101 or 102 that would remove the child from the parent's care and custody,

- (a) ask whether,
 - (i) the society has offered the parent and child services that would enable the child to remain with the parent, and
 - (ii) the parent and, where the child is 12 or older, the child, has consulted independent legal counsel in connection with the consent; and
- (b) be satisfied that,
 - (i) the parent and, where the child is 12 or older, the child, understands the nature and consequences of the consent,
 - (ii) every consent is voluntary, and
 - (iii) the parent and, where the child is 12 or older, the child, consents to the order being sought.

Society's plan for child

100 The court shall, before making an order under section 101, 102, 114 or 116, obtain and consider a plan for the child's care prepared in writing by the society and including,

- (a) a description of the services to be provided to remedy the condition or situation on the basis of which the child was found to be in need of protection;
- (b) a statement of the criteria by which the society will determine when its care or supervision is no longer required;
- (c) an estimate of the time required to achieve the purpose of the society's intervention;
- (d) where the society proposes to remove or has removed the child from a person's care,
 - (i) an explanation of why the child cannot be adequately protected while in the person's care, and a description of any past efforts to do so, and
 - (ii) a statement of what efforts, if any, are planned to maintain the child's contact with the person;
- (e) where the society proposes to remove or has removed the child from a person's care permanently, a description of the arrangements made or being made for the child's long-term stable placement; and
- (f) a description of the arrangements made or being made to recognize the importance of the child's culture and to preserve the child's heritage, traditions and cultural identity.

Order where child in need of protection

101 (1) Where the court finds that a child is in need of protection and is satisfied that intervention through a court order is necessary to protect the child in the future, the court shall make one of the following orders or an order under section 102, in the child's best interests:

Supervision order

1. That the child be placed in the care and custody of a parent or another person, subject to the supervision of the society, for a specified period of at least three months and not more than 12 months.

Interim society care

2. That the child be placed in interim society care and custody for a specified period not exceeding 12 months.

Extended society care

3. That the child be placed in extended society care until the order is terminated under section 116 or expires under section 123.

Consecutive orders of interim society care and supervision

4. That the child be placed in interim society care and custody under paragraph 2 for a specified period and then be returned to a parent or another person under paragraph 1, for a period or periods not exceeding a total of 12 months.

Court to inquire

(2) In determining which order to make under subsection (1) or section 102, the court shall ask the parties what efforts the society or another person or entity has made to assist the child before intervention under this Part.

Less disruptive alternatives preferred

(3) The court shall not make an order removing the child from the care of the person who had charge of the child immediately before intervention under this Part unless the court is satisfied that alternatives that are less disruptive to the child, including non-residential care and the assistance referred to in subsection (2), would be inadequate to protect the child.

Community placement to be considered

(4) Where the court decides that it is necessary to remove the child from the care of the person who had charge of the child immediately before intervention under this Part, the court shall, before making an order under paragraph 2 or 3 of subsection (1), consider whether it is possible to place the child with a relative, neighbour or other member of the child's community or extended family under paragraph 1 of subsection (1) with the consent of the relative or other person.

First Nations, Inuk or Métis child

(5) Where the child referred to in subsection (4) is a First Nations, Inuk or Métis child, unless there is a substantial reason for placing the child elsewhere, the court shall place the child with a member of the child's extended family if it is possible or, if it is not possible,

- (a) in the case of a First Nations child, another First Nations family;
- (b) in the case of an Inuk child, another Inuit family; or
- (c) in the case of a Métis child, another Métis family.

Further hearing with notice for orders for interim or extended society care

(6) When the court has dispensed with notice to a person under subsection 79 (7), the court shall not make an order for interim society care under paragraph 2 of subsection (1) for a period exceeding 30 days or an order for extended society care under paragraph 3 of subsection (1) until a further hearing under subsection 90 (1) has been held upon notice to that person.

Terms and conditions of supervision order

(7) If the court makes a supervision order under paragraph 1 of subsection (1), the court may impose,

- (a) reasonable terms and conditions relating to the child's care and supervision;
- (b) reasonable terms and conditions on,
 - (i) the child's parent,
 - (ii) the person who will have care and custody of the child under the order,
 - (iii) the child, and
 - (iv) any other person, other than a foster parent, who is putting forward or would participate in a plan for the care and custody of or access to the child; and
- (c) reasonable terms and conditions on the society that will supervise the placement, but shall not require the society to provide financial assistance or purchase any goods or services.

Order for child to remain or return to person who had charge before intervention

(8) Where the court finds that a child is in need of protection but is not satisfied that a court order is necessary to protect the child in the future, the court shall order that the child remain with or be returned to the person who had charge of the child immediately before intervention under this Part.

No order where child not subject to parental control

(9) Where the court finds that a child who was not subject to parental control immediately before intervention under this Part by virtue of having withdrawn from parental control or who withdraws from parental control after intervention under this Part is in need of protection, but is not satisfied that a court order is necessary to protect the child in the future, the court shall make no order in respect of the child.

Custody order

102 (1) Subject to subsection (6), if a court finds that an order under this section instead of an order under subsection 101 (1) would be in a child's best interests, the court may make an order granting custody of the child to one or more persons, other than a foster parent of the child, with the consent of the person or persons.

Deemed to be order under s. 28 *Children's Law Reform Act*

(2) An order made under subsection (1) and any access order under section 104 that is made at the same time as the order under subsection (1) is deemed to be made under section 28 of the *Children's Law Reform Act* and the court,

- (a) may make any order under subsection (1) that the court may make under section 28 of that Act; and
- (b) may give any directions that it may give under section 34 of that Act.

Restraining order

(3) When making an order under subsection (1), the court may, without a separate application, make a restraining order in accordance with section 35 of the *Children's Law Reform Act*.

Deemed to be final order under s. 35 *Children's Law Reform Act*

(4) An order under subsection (3) is deemed to be a final order made under section 35 of the *Children's Law Reform Act*, and shall be treated for all purposes as if it had been made under that section.

Appeal under s. 121

(5) Despite subsections (2) and (4), an order under subsection (1) or (3) and any access order under section 104 that is made at the same time as an order under subsection (1) are orders under this Part for the purposes of appealing from the orders under section 121.

Conflict of laws

(6) No order shall be made under this section if,

- (a) an order granting custody of the child has been made under the *Divorce Act* (Canada); or
- (b) in the case of an order that would be made by the Ontario Court of Justice, the order would conflict with an order made by a superior court.

Application of s. 101 (3)

(7) Subsection 101 (3) applies for the purposes of this section.

Effect of custody proceedings

103 If, under this Part, a proceeding is commenced or an order for the care, custody or supervision of a child is made, any proceeding respecting custody of or access to the same child under the *Children's Law Reform Act* is stayed except by leave of the court in the proceeding under that Act.

ACCESS**Access order**

104 (1) The court may, in the child's best interests,

- (a) when making an order under this Part; or
- (b) upon an application under subsection (2),

make, vary or terminate an order respecting a person's access to the child or the child's access to a person, and may impose such terms and conditions on the order as the court considers appropriate.

Who may apply

(2) Where a child is in a society's care and custody or supervision, the following may apply to the court at any time for an order under subsection (1):

- 1. The child.
- 2. Any other person, including a sibling of the child and, in the case of a First Nations, Inuk or Métis child, a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.
- 3. The society.

Notice

(3) An applicant referred to in paragraph 2 of subsection (2) shall give notice of the application to the society.

Society to give notice of application

(4) A society making or receiving an application under subsection (2) shall give notice of the application to,

- (a) the child, subject to subsections 79 (4) and (5) (notice to child);
- (b) the child's parent;
- (c) the person caring for the child at the time of the application; and
- (d) in the case of a First Nations, Inuk or Métis child, the persons described in clauses (a), (b) and (c) and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Child older than 16

(5) No order respecting access to a person 16 or older shall be made under subsection (1) without the person's consent.

Six-month period

(6) No application shall be made under subsection (2) by a person other than a society within six months of,

- (a) the making of an order under section 101;

- (b) the disposition of a previous application by the same person under subsection (2);
- (c) the disposition of an application under section 113 or 115; or
- (d) the final disposition or abandonment of an appeal from an order referred to in clause (a), (b) or (c),

whichever is later.

No application where child placed for adoption

(7) No person or society shall make an application under subsection (2) where the child,

- (a) is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c);
- (b) has been placed in a person's home by the society or by a Director for the purpose of adoption under Part VIII (Adoption and Adoption Licensing); and
- (c) still resides in that person's home.

Access: where child removed from person in charge

105 (1) Where an order is made under paragraph 1 or 2 of subsection 101 (1) removing a child from the person who had charge of the child immediately before intervention under this Part, the court shall make an order for access by the person unless the court is satisfied that continued contact with the person would not be in the child's best interests.

Access after custody order under s. 102

(2) If a custody order is made under section 102 removing a child from the person who had charge of the child immediately before intervention under this Part, the court shall make an order for access by the person unless the court is satisfied that continued contact will not be in the child's best interests.

Access after supervision order or custody order under s. 116 (1)

(3) If an order is made for supervision under clause 116 (1) (a) or for custody under clause 116 (1) (b), the court shall make an order for access by every person who had access before the application for the order was made under section 115, unless the court is satisfied that continued contact will not be in the child's best interests.

Existing access order terminated if order made for extended society care

(4) Where the court makes an order that a child be in extended society care under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), any order for access made under this Part with respect to the child is terminated.

When court may order access to child in extended society care

(5) A court shall not make or vary an access order under section 104 with respect to a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) unless the court is satisfied that the order or variation would be in the child's best interests.

Additional considerations for best interests test

(6) The court shall consider, as part of its determination of whether an order or variation would be in the child's best interests under subsection (5),

- (a) whether the relationship between the person and the child is beneficial and meaningful to the child; and
- (b) if the court considers it relevant, whether the ordered access will impair the child's future opportunities for adoption.

Court to specify access holders and access recipients

(7) Where a court makes or varies an access order under section 104 with respect to a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), the court shall specify,

- (a) every person who has been granted a right of access; and
- (b) every person with respect to whom access has been granted.

When court to terminate access to child in extended society care

(8) The court shall terminate an access order with respect to a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) if the order is no longer in the best interests of the child as determined under subsection (6).

Society may permit contact or communication

(9) If a society believes that contact or communication between a person and a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) is in the best interests of the child and no openness order under Part VIII (Adoption and Adoption Licensing) or access order is in effect with respect to the person and the child, the society may permit contact or communication between the person and the child.

Review of access order made concurrently with custody order

106 No order for access under section 104 is subject to review under this Act if it is made at the same time as a custody order under section 102, but it may be the subject of an application under section 21 of the *Children's Law Reform Act* and the provisions of that Act apply as if the order had been made under that Act.

Restriction on access order

107 If a society has applied to a court for an order under this Act respecting access to a child by a parent of the child and the court makes the order, the court shall specify in the order the supervision to which the access is subject if, at the time of making the order, the parent has been charged with or convicted of an offence under the *Criminal Code* (Canada) involving an act of violence against the child or the other parent of the child, unless the court considers it appropriate not to make the access subject to such supervision.

PAYMENT ORDERS**Order for payment by parent**

108 (1) Where the court places a child in the care of,

- (a) a society; or
- (b) a person other than the child's parent, subject to a society's supervision,

the court may order a parent or a parent's estate to pay the society a specified amount at specified intervals for each day the child is in the society's care or supervision.

Criteria

(2) In making an order under subsection (1), the court shall consider those of the following circumstances of the case that the court considers relevant:

- 1. The assets and means of the child and of the parent or the parent's estate.
- 2. The child's capacity to provide for their own support.
- 3. The capacity of the parent or the parent's estate to provide support.
- 4. The child's and the parent's age and physical and mental health.
- 5. The child's mental, emotional and physical needs.
- 6. Any legal obligation of the parent or the parent's estate to provide support for another person.
- 7. The child's aptitude for and reasonable prospects of obtaining an education.
- 8. Any legal right of the child to support from another source, other than out of public money.

Order ends at 18

(3) No order made under subsection (1) shall extend beyond the day on which the child turns 18.

Power to vary

(4) The court may vary, suspend or terminate an order made under subsection (1) where the court is satisfied that the circumstances of the child or parent have changed.

Collection by municipality

(5) The council of a municipality may enter into an agreement with the board of directors of a society providing for the collection by the municipality, on the society's behalf, of the amounts ordered to be paid by a parent under subsection (1).

Enforcement

(6) An order made against a parent under subsection (1) may be enforced as if it were an order for support made under Part III of the *Family Law Act*.

INTERIM AND EXTENDED SOCIETY CARE**Placement of children**

109 (1) This section applies where a child is in interim society care under an order made under paragraph 2 of subsection 101 (1) or extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c).

Placement

(2) The society having care of a child shall choose a residential placement for the child that,

- (a) represents the least restrictive alternative for the child;

- (b) where possible, respects the child's race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, creed, sex, sexual orientation, gender identity and gender expression;
- (c) where possible, respects the child's cultural and linguistic heritage;
- (d) in the case of a First Nations, Inuk or Métis child, is with, if possible, a member of the child's extended family or, if that is not possible,
 - (i) in the case of a First Nations child, another First Nations family,
 - (ii) in the case of an Inuk child, another Inuit family, or
 - (iii) in the case of a Métis child, another Métis family; and
- (e) takes into account the child's views and wishes, given due weight in accordance with the child's age and maturity, and the views and wishes of any parent who is entitled to access to the child.

Education

(3) The society having care of a child shall ensure that the child receives an education that corresponds to the child's aptitudes and abilities.

Placement outside or removal from Ontario

(4) The society having care of a child shall not place the child outside Ontario or permit a person to remove the child from Ontario permanently unless a Director is satisfied that extraordinary circumstances justify the placement or removal.

Rights of child, parent and foster parent

- (5) The society having care of a child shall ensure that,
- (a) the child is afforded all the rights referred to in Part II (Children's and Young Persons' Rights); and
 - (b) the wishes of any parent who is entitled to access to the child and, where the child is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), of any foster parent with whom the child has lived continuously for two years are taken into account in the society's major decisions concerning the child.

Change of placement

(6) The society having care of a child may remove the child from a foster home or other residential placement where, in the opinion of a Director or local director, it is in the child's best interests to do so.

Notice of proposed removal

- (7) If a child is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) and has lived continuously with a foster parent for two years and a society proposes to remove the child from the foster parent under subsection (6), the society shall,
- (a) give the foster parent at least 10 days notice in writing of the proposed removal and of the foster parent's right to apply for a review under subsection (8); and
 - (b) in the case of a First Nations, Inuk or Métis child, give the notice required by clause (a), and
 - (i) give at least 10 days notice in writing of the proposed removal to a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities, and
 - (ii) after the notice is given under subclause (i), consult with representatives chosen by the bands and communities relating to the plan of care for the child.

Application for review

(8) A foster parent who receives a notice under clause (7) (a) may, within 10 days after receiving the notice, apply to the Board in accordance with the regulations for a review of the proposed removal.

Board hearing

(9) Upon receipt of an application by a foster parent for a review of a proposed removal, the Board shall hold a hearing under this section.

First Nations, Inuk or Métis child

(10) Upon receipt of an application for review of a proposed removal of a First Nations, Inuk or Métis child, the Board shall also give notice of receipt of the application and of the date of the hearing to a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Practices and procedures

(11) The *Statutory Powers Procedure Act* applies to a hearing under this section and the Board shall comply with such additional practices and procedures as may be prescribed.

Composition of Board

(12) At a hearing under this section, the Board shall be composed of members with the prescribed qualifications and prescribed experience.

Parties

(13) The following persons are parties to a hearing under this section:

1. The applicant.
2. The society.
3. If the child is a First Nations, Inuk or Métis child, the persons described in paragraphs 1 and 2 and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.
4. Any person that the Board adds under subsection (14).

Additional parties

(14) The Board may add a person as a party to a review if, in the Board's opinion, it is necessary to do so in order to decide all the issues in the review.

Board decision

(15) The Board shall, in accordance with its determination of which action is in the best interests of the child, confirm the proposal to remove the child or direct the society not to carry out the proposed removal, and shall give written reasons for its decision.

No removal before decision

(16) Subject to subsection (17), the society shall not carry out the proposed removal of the child unless,

- (a) the time for applying for a review of the proposed removal under subsection (8) has expired and an application is not made; or
- (b) if an application for a review of the proposed removal is made under subsection (8), the Board has confirmed the proposed removal under subsection (15).

Where child at risk

(17) A society may remove the child from the foster home before the expiry of the time for applying for a review under subsection (8) or at any time after the application for a review is made if, in the opinion of a local director, there is a risk that the child is likely to suffer harm during the time necessary for a review by the Board.

Review of certain placements

(18) Sections 63, 64, 65 and 66 (review by residential placement advisory committee, further review by the Board) apply with necessary modifications to a residential placement made by a society under this section.

Definition

(19) In this section,

"residential placement" has the same meaning as in section 62.

Child in interim society care

110 (1) Where a child is in interim society care under an order made under paragraph 2 of subsection 101 (1), the society has the rights and responsibilities of a parent for the purpose of the child's care, custody and control.

Consent to treatment — society or parent may act

(2) Where a child is in interim society care under an order made under paragraph 2 of subsection 101 (1), and the child is found incapable of consenting to treatment under the *Health Care Consent Act, 1996*, the society may act in the place of a parent in providing consent to treatment on behalf of the child, unless the court orders that the parent shall retain the authority under that Act to give or refuse consent to treatment on behalf of the incapable child.

Exception

(3) The court shall not make an order under subsection (2) where failure to consent to necessary treatment was a ground for finding that the child was in need of protection.

Court may authorize society to act re consent to treatment

(4) Where a parent referred to in an order made under subsection (2) refuses or is unavailable or unable to consent to treatment for the incapable child and the court is satisfied that the treatment would be in the child's best interests, the court may authorize the society to act in the place of a parent in providing consent to the treatment on the child's behalf.

Consent to child's marriage

(5) Where a child is in interim society care under an order made under paragraph 2 of subsection 101 (1), the child's parent retains any right that the parent may have under the *Marriage Act* to give or refuse consent to the child's marriage.

Child in extended society care

111 (1) Where a child is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), the Crown has the rights and responsibilities of a parent for the purpose of the child's care, custody and control, and the Crown's powers, duties and obligations in respect of the child, except those assigned to a Director by this Act or the regulations, shall be exercised and performed by the society caring for the child.

Consent to treatment — society may act

(2) Where a child is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), and the child is found incapable of consenting to treatment under the *Health Care Consent Act, 1996*, the society may act in the place of a parent in providing consent to treatment on behalf of the child.

Society's obligation to pursue family relationship for child in extended society care

112 Where a child is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), the society shall make all reasonable efforts to assist the child to develop a positive, secure and enduring relationship within a family through one of the following:

1. An adoption.
2. A custody order under subsection 116 (1).
3. In the case of a First Nations, Inuk or Métis child,
 - i. a plan for customary care,
 - ii. an adoption, or
 - iii. a custody order under subsection 116 (1).

REVIEW**Status review**

113 (1) This section applies where a child is the subject of an order made under paragraph 1 or 4 of subsection 101 (1) for society supervision or under paragraph 2 of subsection 101 (1) for interim society care.

Society to seek status review

- (2) The society having care, custody or supervision of a child,
- (a) may apply to the court at any time for a review of the child's status;
 - (b) shall apply to the court for a review of the child's status before the order expires, unless the expiry is by reason of section 123; and
 - (c) shall apply to the court for a review of the child's status within five days after removing the child, if the society has removed the child from the care of a person with whom the child was placed under an order for society supervision.

Application of subs. (2) (a) and (c)

(3) If a child is the subject of an order for society supervision, clauses (2) (a) and (c) also apply to the society that has jurisdiction in the county or district in which the parent or other person with whom the child is placed resides.

Others may seek status review

- (4) An application for review of a child's status may be made on notice to the society by,
- (a) the child, if the child is at least 12;
 - (b) a parent of the child;
 - (c) the person with whom the child was placed under an order for society supervision; or
 - (d) in the case of a First Nations, Inuk or Métis child, a person described in clause (a), (b) or (c) or a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Notice

(5) A society making an application under subsection (2) or receiving notice of an application under subsection (4) shall give notice of the application to,

- (a) the child, except as otherwise provided under subsection 79 (4) or (5);
- (b) the child's parent;
- (c) the person with whom the child was placed under an order for society supervision;
- (d) any foster parent who has cared for the child continuously during the six months immediately before the application; and
- (e) in the case of a First Nations, Inuk or Métis child, the persons described in clauses (a), (b), (c) and (d) and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Six-month period

(6) No application shall be made under subsection (4) within six months after the latest of,

- (a) the day the original order was made under subsection 101 (1);
- (b) the day the last application by a person under subsection (4) was disposed of; or
- (c) the day any appeal from an order referred to in clause (a) or the disposition referred to in clause (b) was finally disposed of or abandoned.

Exception

(7) Subsection (6) does not apply if the court is satisfied that a major element of the plan for the child's care that the court applied in its decision is not being carried out.

Interim care and custody

(8) If an application is made under this section, the child shall remain in the care and custody of the person or society having charge of the child until the application is disposed of, unless the court is satisfied that the child's best interests require a change in the child's care and custody.

Court may vary, etc.

114 Where an application for review of a child's status is made under section 113, the court may, in the child's best interests,

- (a) vary or terminate the original order made under subsection 101 (1), including a term or condition or a provision for access that is part of the order;
- (b) order that the original order terminate on a specified future date;
- (c) make a further order or orders under section 101; or
- (d) make an order under section 102.

Status review for children in, or formerly in, extended society care

115 (1) This section applies where a child is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), or is subject to an order for society supervision made under clause 116 (1) (a) or for custody made under clause 116 (1) (b).

Society to seek status review

(2) The society that has or had care, custody or supervision of the child,

- (a) may apply to the court at any time, subject to subsection (9), for a review of the child's status;
- (b) shall apply to the court for a review of the child's status before the order expires if the order is for society supervision, unless the expiry is by reason of section 123; and
- (c) shall apply to the court for a review of the child's status within five days after removing the child, if the society has removed the child,
 - (i) from the care of a person with whom the child was placed under an order for society supervision described in clause 116 (1) (a), or
 - (ii) from the custody of a person who had custody of the child under a custody order described in clause 116 (1) (b).

Application of subs. (2) (a) and (c)

(3) Clauses (2) (a) and (c) also apply to the society that has jurisdiction in the county or district,

- (a) in which the parent or other person with whom the child is placed resides, if the child is the subject of an order for society supervision under clause 116 (1) (a); or
- (b) in which the person who has custody resides, if the child is the subject of a custody order under clause 116 (1) (b).

Others may seek status review

- (4) An application for review of a child's status under this section may be made on notice to the society by,
- (a) the child, if the child is at least 12;
 - (b) a parent of the child;
 - (c) the person with whom the child was placed under an order for society supervision described in clause 116 (1) (a);
 - (d) the person to whom custody of the child was granted, if the child is subject to an order for custody described in clause 116 (1) (b);
 - (e) a foster parent, if the child has lived continuously with the foster parent for at least two years immediately before the application; or
 - (f) in the case of a First Nations, Inuk or Métis child, a person described in clause (a), (b), (c), (d) or (e) or a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

When leave to apply required

- (5) Despite clause (4) (b), a parent of a child shall not make an application under subsection (4) without leave of the court if the child has, immediately before the application, received continuous care for at least two years from the same foster parent or from the same person under a custody order.

Notice

- (6) A society making an application under subsection (2) or receiving notice of an application under subsection (4) shall give notice of the application to,
- (a) the child, except as otherwise provided under subsection 79 (4) or (5);
 - (b) the child's parent, if the child is younger than 16;
 - (c) the person with whom the child was placed, if the child is subject to an order for society supervision described in clause 116 (1) (a);
 - (d) the person to whom custody of the child was granted, if the child is subject to an order for custody described in clause 116 (1) (b);
 - (e) any foster parent who has cared for the child continuously during the six months immediately before the application; and
 - (f) in the case of a First Nations, Inuk or Métis child, the persons described in clause (a), (b), (c), (d) or (e) and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Six-month period

- (7) No application shall be made under subsection (4) within six months after the latest of,
- (a) the day the order was made under subsection 101 (1) or 116 (1), whichever is applicable;
 - (b) the day the last application by a person under subsection (4) was disposed of; or
 - (c) the day any appeal from an order referred to in clause (a) or a disposition referred to in clause (b) was finally disposed of or abandoned.

Exception

- (8) Subsection (7) does not apply if,
- (a) the child is the subject of,
 - (i) an order for society supervision made under clause 116 (1) (a),
 - (ii) an order for custody made under clause 116 (1) (b), or
 - (iii) an order for extended society care made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) and an order for access under section 104; and
 - (b) the court is satisfied that a major element of the plan for the child's care that the court applied in its decision is not being carried out.

No review if child placed for adoption

(9) No person or society shall make an application under this section with respect to a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) who has been placed in a person's home by the society or by a Director for the purposes of adoption under Part VIII (Adoption and Adoption Licensing), if the child still resides in the person's home.

Interim care and custody

(10) If an application is made under this section, the child shall remain in the care and custody of the person or society having charge of the child until the application is disposed of, unless the court is satisfied that the child's best interests require a change in the child's care and custody.

Court order

116 (1) If an application for review of a child's status is made under section 115, the court may, in the child's best interests,

- (a) order that the child be placed in the care and custody of a parent or another person, subject to the supervision of the society, for a specified period of at least three months and not more than 12 months;
- (b) order that custody be granted to one or more persons, including a foster parent, with the consent of the person or persons;
- (c) order that the child be placed in extended society care until the order is terminated under this section or expires under section 123; or
- (d) terminate or vary any order made under section 101 or this section.

Variation, termination or new order

(2) When making an order under subsection (1), the court may, subject to section 105, vary or terminate an order for access or make a further order under section 104.

Termination of extended society care order

(3) Any previous order for extended society care made under paragraph 3 of subsection 101 (1) or clause (1) (c) is terminated if an order described in clause (1) (a) or (b) is made in respect of a child.

Terms and conditions of supervision order

(4) If the court makes a supervision order described in clause (1) (a), the court may impose,

- (a) reasonable terms and conditions relating to the child's care and supervision;
- (b) reasonable terms and conditions on,
 - (i) the child's parent,
 - (ii) the person who will have care and custody of the child under the order,
 - (iii) the child, and
 - (iv) any other person, other than a foster parent, who is putting forward a plan or who would participate in a plan for care and custody of or access to the child; and
- (c) reasonable terms and conditions on the society that will supervise the placement, but shall not require the society to provide financial assistance or purchase any goods or services.

Access

(5) Section 105 applies with necessary modifications if the court makes an order described in clause (1) (a), (b) or (c).

Custody proceeding

(6) Where an order is made under this section or a proceeding is commenced under this Part, any proceeding respecting custody of or access to the same child under the *Children's Law Reform Act* is stayed except by leave of the court in the proceeding under that Act.

Rights and responsibilities

(7) A person to whom custody of a child is granted by an order under this section has the rights and responsibilities of a parent in respect of the child and must exercise those rights and responsibilities in the best interests of the child.

Director's annual review of children in extended society care

117 (1) A Director or a person authorized by a Director shall, at least once during each calendar year, review the status of every child,

- (a) who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c);

- (b) who was in extended society care under an order described in clause (a) throughout the immediately preceding 24 months; and
- (c) whose status has not been reviewed under this section or under section 116 during that time.

Direction to society

(2) After a review under subsection (1), the Director may direct the society to make an application for review of the child's status under subsection 115 (2) or give any other direction that, in the Director's opinion, is in the child's best interests.

Investigation by judge

118 (1) The Minister may appoint a judge of the Court of Ontario to investigate a matter relating to a child in a society's care or the proper administration of this Part, and a judge who is appointed shall conduct the investigation and make a written report to the Minister.

Application of *Public Inquiries Act, 2009*

(2) Section 33 of the *Public Inquiries Act, 2009* applies to an investigation by a judge under subsection (1).

Complaint to society

119 (1) A person may make a complaint to a society relating to a service sought or received by that person from the society in accordance with the regulations.

Complaint review procedure

(2) Where a society receives a complaint under subsection (1), it shall deal with the complaint in accordance with the complaint review procedure established by regulation, subject to subsection 120 (2).

Public availability

(3) A society shall make information relating to the complaint review procedure available to the public and to any person upon request.

Society's decision

(4) Subject to subsection (5), the decision of a society made upon completion of the complaint review procedure is final.

Application for review by Board

(5) If a complaint relates to one of the following matters, the complainant may apply to the Board in accordance with the regulations for a review of the decision made by the society upon completion of the complaint review procedure:

1. A matter described in subsection 120 (4).
2. Any other prescribed matter.

Review by Board

(6) Upon receipt of an application under subsection (5), the Board shall give the society notice of the application and conduct a review of the society's decision.

Composition of Board

(7) The Board shall be composed of members with the prescribed qualifications and prescribed experience.

Hearing optional

(8) The Board may hold a hearing and, if a hearing is held, the Board shall comply with the prescribed practices and procedures.

Non-application

(9) The *Statutory Powers Procedure Act* does not apply to a hearing under this section.

Board decision

(10) Upon completing its review of a decision by a society in relation to a complaint, the Board may,

- (a) in the case of a matter described in subsection 120 (4), make any order described in subsection 120 (7), as appropriate;
- (b) redirect the matter to the society for further review;
- (c) confirm the society's decision; or
- (d) make such other order as may be prescribed.

No review if matter within purview of court

(11) A society shall not conduct a review of a complaint under this section if the subject of the complaint,

- (a) is an issue that has been decided by the court or is before the court; or
- (b) is subject to another decision-making process under this Act or the *Labour Relations Act, 1995*.

Complaint to Board

120 (1) If a complaint in respect of a service sought or received from a society relates to a matter described in subsection (4), the person who sought or received the service may,

- (a) decide not to make the complaint to the society under section 119 and make the complaint directly to the Board under this section; or
- (b) where the person first makes the complaint to the society under section 119, submit the complaint to the Board before the society's complaint review procedure is completed.

Notice to society

(2) If a person submits a complaint to the Board under clause (1) (b) after having brought the complaint to the society under section 119, the Board shall give the society notice of that fact and the society may terminate or stay its review, as it considers appropriate.

Complaint to Board

(3) A complaint to the Board under this section shall be made in accordance with the regulations.

Matters for Board review

(4) The following matters may be reviewed by the Board under this section:

1. Allegations that the society has refused to proceed with a complaint made by the complainant under subsection 119 (1) as required under subsection 119 (2).
2. Allegations that the society has failed to respond to the complainant's complaint within the timeframe required by regulation.
3. Allegations that the society has failed to comply with the complaint review procedure or with any other procedural requirements under this Act relating to the review of complaints.
4. Allegations that the society has failed to comply with subsection 15 (2).
5. Allegations that the society has failed to provide the complainant with reasons for a decision that affects the complainant's interests.
6. Such other matters as may be prescribed.

Review by Board

(5) Upon receipt of a complaint under this section, the Board shall conduct a review of the matter.

Application

(6) Subsections 119 (7), (8) and (9) apply with necessary modification to a review of a complaint made under this section.

Board decision

(7) After reviewing the complaint, the Board may,

- (a) order the society to proceed with the complaint made by the complainant in accordance with the complaint review procedure established by regulation;
- (b) order the society to provide a response to the complainant within a period specified by the Board;
- (c) order the society to comply with the complaint review procedure established by regulation or with any other requirements under this Act;
- (d) order the society to provide written reasons for a decision to a complainant;
- (e) dismiss the complaint; or
- (f) make such other order as may be prescribed.

No review if matter within purview of court

(8) The Board shall not conduct a review of a complaint under this section if the subject of the complaint,

- (a) is an issue that has been decided by the court or is before the court; or
- (b) is subject to another decision-making process under this Act or the *Labour Relations Act, 1995*.

APPEALS

Appeal

- 121** (1) An appeal from a court's order under this Part may be made to the Superior Court of Justice by,
- (a) the child, if the child is entitled to participate in the proceeding under subsection 79 (6) (child's participation);
 - (b) any parent of the child;
 - (c) the person who had charge of the child immediately before intervention under this Part;
 - (d) a Director or local director; or
 - (e) in the case of a First Nations, Inuk or Métis child, a person described in clause (a), (b), (c) or (d) or a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Exception

- (2) Subsection (1) does not apply to an order for an assessment under section 98.

Care and custody pending appeal

- (3) Where a decision regarding the care and custody of a child is appealed under subsection (1), execution of the decision shall be stayed for the 10 days immediately following service of the notice of appeal on the court that made the decision, and where the child is in the society's care and custody at the time the decision is made, the child shall remain in the care and custody of the society until,

- (a) the 10-day period of the stay has expired; or
- (b) an order is made under subsection (4),

whichever is earlier.

Temporary order

- (4) The Superior Court of Justice may, in the child's best interests, make a temporary order for the child's care and custody pending final disposition of the appeal, and the court may, on any party's motion before the final disposition of the appeal, vary or terminate the order or make a further order.

No extension where child placed for adoption

- (5) No extension of the time for an appeal shall be granted where the child has been placed for adoption under Part VIII (Adoption and Adoption Licensing).

Further evidence

- (6) The court may receive further evidence relating to events after the appealed decision.

Place of hearing

- (7) An appeal under this section shall be heard in the county or district in which the order appealed from was made.

Application of s. 87

- (8) Section 87 (rules re hearings) applies with necessary modifications to an appeal under this section.

EXPIRY OF ORDERS

Time limit

- 122** (1) Subject to subsections (4) and (5), the court shall not make an order for interim society care under paragraph 2 of subsection 101 (1) that results in a child being in the care and custody of a society for a period exceeding,

- (a) 12 months, if the child is younger than 6 on the day the court makes the order; or
- (b) 24 months, if the child is 6 or older on the day the court makes the order.

Calculation of time limit

- (2) The time during which a child has been in a society's care and custody pursuant to the following shall be counted in calculating the period referred to in subsection (1):

1. An agreement made under subsection 75 (1) (temporary care agreement).
2. A temporary order made under clause 94 (2) (d) (custody during adjournment).

Previous periods to be counted

- (3) The period referred to in subsection (1) shall include any previous periods that the child was in a society's care and custody under an interim society care order made under paragraph 2 of subsection 101 (1) or as described in subsection (2).

other than periods that precede a continuous period of five or more years that the child was not in a society's care and custody.

Deemed extension of time limit

(4) Where the period referred to in subsection (1) or (5) expires and,

- (a) an appeal of an order made under subsection 101 (1) has been commenced and is not yet finally disposed of; or
- (b) the court has adjourned a hearing under section 114 (status review),

the period is deemed to be extended until the appeal has been finally disposed of and any new hearing ordered on appeal has been completed or an order has been made under section 114, as the case may be.

Six-month extension

(5) Subject to paragraphs 2 and 4 of subsection 101 (1), the court may by order extend the period permitted under subsection (1) by a period not to exceed six months if it is in the child's best interests to do so.

Expiry of orders

123 An order under this Part expires when the child who is the subject of the order,

- (a) turns 18; or
- (b) marries,

whichever comes first.

CONTINUED CARE AND SUPPORT

Continued care and support

124 A society or prescribed entity shall enter into an agreement to provide care and support to a person in accordance with the regulations in each of the following circumstances:

1. A custody order under clause 116 (1) (b) or an order for extended society care under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) was made in relation to that person as a child and the order expires under section 123.
2. The person entered into an agreement with the society under section 77 and the agreement expires on the person's 18th birthday.
3. The person is 18 or older and was eligible for the prescribed support services.
4. In the case of a First Nations, Inuk or Métis person who is 18 or older, paragraph 1, 2 or 3 applies or the person was being cared for under customary care immediately before their 18th birthday and the person who was caring for them was receiving a subsidy from the society or an entity under section 71.

DUTY TO REPORT

Duty to report child in need of protection

125 (1) Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall immediately report the suspicion and the information on which it is based to a society:

1. The child has suffered physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
2. There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
3. The child has been sexually abused or sexually exploited by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual abuse or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually abused or sexually exploited as described in paragraph 3.
5. The child requires treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or, where the child is incapable of

consenting to the treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, the treatment on the child's behalf.

6. The child has suffered emotional harm, demonstrated by serious,

- i. anxiety,
- ii. depression,
- iii. withdrawal,
- iv. self-destructive or aggressive behaviour, or
- v. delayed development,

and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.

7. The child has suffered emotional harm of the kind described in subparagraph 6 i. ii. iii. iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the harm.
8. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 6 i. ii. iii. iv or v resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.
9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 6 i. ii. iii. iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to prevent the harm.
10. The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.
11. The child's parent has died or is unavailable to exercise custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.
12. The child is younger than 12 and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to treatment.
13. The child is younger than 12 and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately.

Ongoing duty to report

(2) A person who has additional reasonable grounds to suspect one of the matters set out in subsection (1) shall make a further report under subsection (1) even if the person has made previous reports with respect to the same child.

Person must report directly

(3) A person who has a duty to report a matter under subsection (1) or (2) shall make the report directly to the society and shall not rely on any other person to report on the person's behalf.

Duty to report does not apply to older children

(4) Subsections (1) and (2) do not apply in respect of a child who is 16 or 17, but a person may make a report under subsection (1) or (2) in respect of a child who is 16 or 17 if either a circumstance or condition described in paragraphs 1 to 11 of subsection (1) or a prescribed circumstance or condition exists.

Offence

(5) A person referred to in subsection (6) is guilty of an offence if,

- (a) the person contravenes subsection (1) or (2) by not reporting a suspicion; and
- (b) the information on which it was based was obtained in the course of the person's professional or official duties.

Professionals and officials

- (6) Subsection (5) applies to every person who performs professional or official duties with respect to children including,
- (a) a health care professional, including a physician, nurse, dentist, pharmacist and psychologist;
 - (b) a teacher, person appointed to a position designated by a board of education as requiring an early childhood educator, school principal, social worker, family counsellor, youth and recreation worker, and operator or employee of a child care centre or home child care agency or provider of licensed child care within the meaning of the *Child Care and Early Years Act, 2014*;
 - (c) a religious official;
 - (d) a mediator and an arbitrator;
 - (e) a peace officer and a coroner;
 - (f) a lawyer; and
 - (g) a service provider and an employee of a service provider.

Volunteer excluded

- (7) In clause (6) (b),
“youth and recreation worker” does not include a volunteer.

Director, officer or employee of corporation

- (8) A director, officer or employee of a corporation who authorizes, permits or concurs in the commission of an offence under subsection (5) by an employee of the corporation is guilty of an offence.

Penalty

- (9) A person convicted of an offence under subsection (5) or (8) is liable to a fine of not more than \$5,000.

Section overrides privilege; protection from liability

- (10) This section applies although the information reported may be confidential or privileged, and no action for making the report shall be instituted against a person who acts in accordance with this section unless the person acts maliciously or without reasonable grounds for the suspicion.

Solicitor-client privilege

- (11) Nothing in this section abrogates any privilege that may exist between a lawyer and the lawyer’s client.

Conflict

- (12) This section prevails despite anything in the *Personal Health Information Protection Act, 2004*.

Society to assess and verify report of child in need of protection

- 126** (1) A society that receives a report under section 125 that a child, including a child in the society’s care or supervision, is or may be in need of protection shall as soon as possible carry out an assessment as prescribed and verify the reported information, or ensure that the information is assessed and verified by another society.

Protection from liability

- (2) No action or other proceeding for damages shall be instituted against an officer or employee of a society, acting in good faith, for an act done in the execution or intended execution of the duty imposed on the society by subsection (1) or for an alleged neglect or default of that duty.

Society to report abuse of child in its care and custody

- 127** (1) A society that obtains information that a child in its care and custody is or may be suffering or may have suffered abuse shall report the information to a Director as soon as possible.

Definition

- (2) In this section and in sections 129 and 133,

“to suffer abuse”, when used in reference to a child, means to be in need of protection within the meaning of clause 74 (2) (a), (c), (e), (f), (g) or (j).

Duty to report child’s death

- 128** A person or society that obtains information that a child has died shall report the information to a coroner if,

- (a) a court made an order under this Act denying access to the child by a parent of the child or making the access subject to supervision;

- (b) on the application of a society, a court varied the order to grant the access or to make it no longer subject to supervision; and
- (c) the child subsequently died as a result of a criminal act committed by a parent or family member who had custody or charge of the child at the time of the act.

REVIEW TEAMS

Review team

129 (1) In this section,

“review team” means a team established by a society under subsection (2).

Composition

(2) Every society shall establish a review team that includes,

- (a) persons who are professionally qualified to perform medical, psychological, developmental, educational or social assessments; and
- (b) at least one legally qualified medical practitioner.

Chair

(3) The members of a review team shall choose a chair from among themselves.

Duty of team

(4) Whenever a society refers the case of a child who may be suffering or may have suffered abuse to its review team, the review team or a panel of at least three of its members, designated by the chair, shall,

- (a) review the case; and
- (b) recommend to the society how the child may be protected.

Disclosure to team permitted

(5) Despite the provisions of any other Act, a person may disclose to a review team or to any of its members information reasonably required for a review under subsection (4).

Section overrides privilege; protection from liability

(6) Subsection (5) applies although the information disclosed may be confidential or privileged and no action for disclosing the information shall be instituted against a person who acts in accordance with subsection (5), unless the person acts maliciously or without reasonable grounds.

Where child not to be returned without review or hearing

(7) Where a society with a review team has information that a child placed in its care under subsection 94 (2) (custody during adjournment) or subsection 101 (1) (order where child in need of protection) may have suffered abuse, the society shall not return the child to the care of the person who had charge of the child at the time of the possible abuse unless,

- (a) the society has,
 - (i) referred the case to its review team, and
 - (ii) obtained and considered the review team’s recommendations; or
- (b) the court has terminated the order placing the child in the society’s care.

COURT-ORDERED ACCESS TO RECORDS

Production of records

Definition

130 (1) In this section and sections 131 and 132,

“record of personal health information” has the same meaning as in the *Mental Health Act*.

Motion or application for production of record

(2) A Director or a society may at any time make a motion or an application for an order under subsection (3) or (4) for the production of a record or part of a record.

Order on motion

(3) Where the court is satisfied that a record or part of a record that is the subject of a motion referred to in subsection (2) contains information that may be relevant to a proceeding under this Part and that the person in possession or control of the

record has refused to permit a Director or the society to inspect it, the court may order that the person in possession or control of the record produce it or a specified part of it for inspection and copying by the Director, by the society or by the court.

Order on application

(4) Where the court is satisfied that a record or part of a record that is the subject of an application referred to in subsection (2) may be relevant to assessing compliance with one of the following and that the person in possession or control of the record has refused to permit a Director or the society to inspect it, the court may order that the person in possession or control of the record produce it or a specified part of it for inspection and copying by the Director, by the society or by the court:

1. An order under clause 94 (2) (b) or (c) that is subject to supervision.
2. An order under clause 94 (2) (c) or (d) with respect to access.
3. A supervision order under paragraph 1 or 4 of subsection 101 (1).
4. An access order under section 104.
5. An order with respect to access or supervision on an application under section 113 or 115.
6. A custody order under section 116.
7. A restraining order under section 137.

Court may examine record

(5) In considering whether to make an order under subsection (3) or (4), the court may examine the record.

Information confidential

(6) No person who obtains information by means of an order made under subsection (3) or (4) shall disclose the information except,

- (a) as specified in the order; and
- (b) in testimony in a proceeding under this Part.

Conflict

(7) Subsection (6) prevails despite anything in the *Personal Health Information Protection Act, 2004*.

Solicitor-client privilege

(8) Subject to subsection (9), this section applies despite any other Act, but nothing in this section abrogates any privilege that may exist between a lawyer and the lawyer's client.

Application of Mental Health Act

(9) Where a motion or an application under subsection (2) concerns a record of personal health information, subsection 35 (6) (attending physician's statement, hearing) of the *Mental Health Act* applies and the court shall give equal consideration to,

- (a) the matters to be considered under subsection 35 (7) of that Act; and
- (b) the need to protect the child.

Application of s. 294

(10) Where a motion or an application under subsection (2) concerns a record that is a record of a mental disorder within the meaning of section 294, that section applies and the court shall give equal consideration to,

- (a) the matters to be considered under subsection 294 (6); and
- (b) the need to protect the child.

Warrant for access to record

131 (1) The court or a justice of the peace may issue a warrant for access to a record or a specified part of it if the court or justice of the peace is satisfied on the basis of information on oath from a Director or a person designated by a society that there are reasonable grounds to believe that the record or part of the record is relevant to investigate an allegation that a child is or may be in need of protection.

Authority conferred by warrant

(2) The warrant authorizes the Director or the person designated by the society to,

- (a) inspect the record specified in the warrant during normal business hours or during the hours specified in the warrant;
- (b) make copies from the record in any manner that does not damage the record; and
- (c) remove the record for the purpose of making copies.

Return of record

(3) A person who removes a record under clause (2) (c) shall promptly return it after copying it.

Admissibility of copies

(4) A copy of a record that is the subject of a warrant under this section and that is certified as being a true copy of the original by the person who made the copy is admissible in evidence to the same extent as and has the same evidentiary value as the record.

Duration of warrant

(5) The warrant is valid for seven days.

Execution

(6) The Director or the person designated by the society may call on a peace officer for assistance in executing the warrant.

Solicitor-client privilege

(7) This section applies despite any other Act, but nothing in this section abrogates any privilege that may exist between a lawyer and the lawyer's client.

Application of *Mental Health Act*

(8) If a warrant issued under this section concerns a record of personal health information and the warrant is challenged under subsection 35 (6) (attending physician's statement, hearing) of the *Mental Health Act*, equal consideration shall be given to,

- (a) the matters set out in subsection 35 (7) of that Act; and
- (b) the need to protect the child.

Application of s. 294

(9) If a warrant issued under this section concerns a record of a mental disorder within the meaning of section 294 and the warrant is challenged under section 294, equal consideration shall be given to,

- (a) the matters set out in subsection 294 (6); and
- (b) the need to protect the child.

Telewarrant

132 (1) Where a Director or a person designated by a society believes that there are reasonable grounds for the issuance of a warrant under section 131 and that it would be impracticable to appear personally before the court or a justice of the peace to make application for a warrant in accordance with section 131, the Director or person designated by the society may submit an information on oath by telephone or other means of telecommunication to a justice designated for the purpose by the Chief Justice of the Ontario Court of Justice.

Same

(2) The information shall,

- (a) include a statement of the grounds to believe that the record or part of the record is relevant to investigate an allegation that a child is or may be in need of protection; and
- (b) set out the circumstances that make it impracticable for the Director or person designated by the society to appear personally before a court or justice of the peace.

Warrant to be issued

(3) The justice may issue a warrant for access to the record or the specified part of it if the justice is satisfied that the application discloses,

- (a) reasonable grounds to believe that the record or the part of a record is relevant to investigate an allegation that a child is or may be in need of protection; and
- (b) reasonable grounds to dispense with personal appearance for the purpose of an application under section 131.

Validity of warrant

(4) A warrant issued under this section is not subject to challenge by reason only that there were not reasonable grounds to dispense with personal appearance for the purpose of an application under section 131.

Application of provisions

(5) Subsections 131 (2) to (9) apply with necessary modifications with respect to a warrant issued under this section.

Definition

(6) In this section,

“justice” means justice of the peace, a judge of the Ontario Court of Justice or a judge of the Family Court of the Superior Court of Justice.

CHILD ABUSE REGISTER**Register**

133 (1) In this section and in section 134,

“Director” means the person appointed under subsection (2); (“directeur”)

“register” means the register maintained under subsection (5); (“registre”)

“registered person” means a person identified in the register, but does not include,

- (a) a person who reports to a society under subsection 125 (1) or (2) and is not the subject of the report, or
- (b) the child who is the subject of a report. (“personne inscrite”)

Director

(2) The Minister may appoint an employee in the Ministry as Director for the purposes of this section.

Duty of society

(3) A society that receives a report under section 125 that a child, including a child in the society’s care, is or may be suffering or may have suffered abuse shall verify the reported information as soon as possible, or ensure that the information is verified by another society, in the manner determined by the Director, and if the information is verified, the society that verified it shall report it to the Director in the prescribed form as soon as possible.

Protection from liability

(4) No action or other proceeding for damages shall be instituted against an officer or employee of a society, acting in good faith, for an act done in the execution or intended execution of the duty imposed on the society by subsection (3) or for an alleged neglect or default of that duty.

Child abuse register

(5) The Director shall maintain a register in the prescribed manner for the purpose of recording information reported to the Director under subsection (3), but the register shall not contain information that has the effect of identifying a person who reports to a society under subsection 125 (1) or (2) and is not the subject of the report.

Register confidential

(6) Despite Part X (Personal Information) and any other Act, no person shall inspect, remove or alter or permit the inspection, removal or alteration of information in the register, or disclose or permit the disclosure of information that the person obtained from the register, except as this section authorizes.

Coroner’s inquest, etc.

(7) The following persons may inspect, remove and disclose information in the register in accordance with that person’s authority:

- 1. A coroner, or a legally qualified medical practitioner or peace officer authorized in writing by a coroner, acting in connection with an investigation or inquest under the *Coroners Act*.
- 2. The Children’s Lawyer or the Children’s Lawyer’s authorized agent.

Minister or Director may permit access to register

(8) The Minister or the Director may permit the following persons to inspect and remove information in the register and to disclose the information to a person referred to in subsection (7) or to another person referred to in this subsection, subject to such terms and conditions as the Director may impose:

- 1. A person who is employed,
 - i. in the Ministry,
 - ii. by a society, or
 - iii. by a child welfare authority outside Ontario.
- 2. A person who is providing or proposes to provide counselling or treatment to a registered person.

Minister or Director may disclose information

(9) The Minister or the Director may disclose information in the register to a person referred to in subsection (7) or (8).

Research

(10) A person who is engaged in research may, with the Director's written approval, inspect and use the information in the register, but shall not,

- (a) use or communicate the information for any purpose except research, academic pursuits or the compilation of statistical data; or
- (b) communicate any information that may have the effect of identifying a person named in the register.

Access by child or registered person

(11) A child, a registered person or the child's or registered person's lawyer or agent may inspect only the information in the register that refers to the child or registered person.

Physician

(12) A legally qualified medical practitioner may, with the Director's written approval, inspect the information in the register that is specified by the Director.

Amendment of register

(13) The Director or an employee in the Ministry acting under the Director's authority,

- (a) shall remove a name from or otherwise amend the register where the regulations require the removal or amendment; and
- (b) may amend the register to correct an error.

Register inadmissible: exceptions

(14) The register shall not be admitted into evidence in a proceeding except,

- (a) to prove compliance or non-compliance with this section;
- (b) in a hearing or appeal under section 134;
- (c) in a proceeding under the *Coroners Act*; or
- (d) in a proceeding referred to in section 138.

Hearing re registered person**Definition**

134 (1) In this section,

"hearing" means a hearing held under clause (4) (b).

Notice to registered person

(2) Where an entry is made in the register, the Director shall as soon as possible give written notice to each registered person referred to in the entry indicating that,

- (a) the person is identified in the register;
- (b) the person or the person's lawyer or agent is entitled to inspect the information in the register that refers to or identifies the person; and
- (c) the person is entitled to request that the Director remove the person's name from or otherwise amend the register.

Request to amend register

(3) A registered person who receives notice under subsection (2) may request that the Director remove the person's name from or otherwise amend the register.

Director's response

(4) On receiving a request under subsection (3), the Director may,

- (a) grant the request; or
- (b) hold a hearing, on 10 days written notice to the parties, to determine whether to grant or refuse the request.

Delegation

(5) The Director may authorize another person to hold a hearing and exercise the Director's powers and duties under subsection (8).

Procedure

(6) The *Statutory Powers Procedure Act* applies to a hearing and a hearing shall be conducted in accordance with the prescribed practices and procedures.

Hearing

(7) The parties to a hearing are,

- (a) the registered person;
- (b) the society that verified the information referring to or identifying the registered person; and
- (c) any other person specified by the Director.

Director's decision

(8) Where the Director determines, after holding a hearing, that the information in the register with respect to a registered person is in error or should not be in the register, the Director shall remove the registered person's name from or otherwise amend the register, and may order that the society's records be amended to reflect the Director's decision.

Appeal to Divisional Court

(9) A party to a hearing may appeal the Director's decision to the Divisional Court.

Hearing private

(10) A hearing or appeal under this section shall be held in the absence of the public and no media representative shall be permitted to attend.

Publication

(11) No person shall publish or make public information that has the effect of identifying a witness at or a participant in a hearing, or a party to a hearing other than a society.

Record inadmissible: exception

(12) The record of a hearing or appeal under this section shall not be admitted into evidence in any other proceeding except a proceeding under clause 142 (1) (c) (confidentiality of child abuse register) or clause 142 (1) (d) (amendment of society's records).

POWERS OF DIRECTOR**Director's power to transfer**

135 (1) A Director may direct, in the best interests of a child in the care or supervision of a society, that the child,

- (a) be transferred to the care or supervision of another society; or
- (b) be transferred from one placement to another placement designated by the Director.

Criteria

(2) In determining whether to direct a transfer under clause (1) (b), the Director shall take into account,

- (a) the length of time the child has spent in the existing placement;
- (b) the views of the foster parents; and
- (c) the views and wishes of the child, given due weight in accordance with the child's age and maturity.

OFFENCES, RESTRAINING ORDERS, RECOVERY ON CHILD'S BEHALF AND INJUNCTIONS**Abuse, failure to provide for reasonable care, etc.****Definition**

136 (1) In this section,

"abuse" means a state or condition of being physically harmed, sexually abused or sexually exploited.

Child abuse

(2) No person having charge of a child shall,

- (a) inflict abuse on the child; or
- (b) by failing to care and provide for or supervise and protect the child adequately,
 - (i) permit the child to suffer abuse, or

- (ii) permit the child to suffer from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development.

Leaving child unattended

(3) No person having charge of a child younger than 16 shall leave the child without making provision for the child's supervision and care that is reasonable in the circumstances.

Allowing child to loiter, etc.

(4) No parent of a child younger than 16 shall permit the child to,

- (a) loiter in a public place between the hours of midnight and 6 a.m.; or
- (b) be in a place of public entertainment between the hours of midnight and 6 a.m., unless the parent accompanies the child or authorizes a specified individual 18 or older to accompany the child.

Police may bring child home or to place of safety

(5) Where a child who is actually or apparently younger than 16 is in a place to which the public has access between the hours of midnight and 6 a.m. and is not accompanied by a person described in clause (4) (b), a peace officer may bring the child to a place of safety without a warrant and proceed as if the child had been brought to a place of safety under subsection 84 (1).

Child protection hearing

(6) The court may, in connection with a case arising under subsection (2), (3) or (4), proceed under this Part as if an application had been made under subsection 81 (1) (child protection proceeding) in respect of the child.

Restraining order

137 (1) Instead of making an order under subsection 101 (1) or section 116 or in addition to making a temporary order under subsection 94 (2) or an order under subsection 101 (1) or section 116, the court may make one or more of the following orders in the child's best interests:

- 1. An order restraining or prohibiting a person's access to or contact with the child, and may include in the order such directions as the court considers appropriate for implementing the order and protecting the child.
- 2. An order restraining or prohibiting a person's contact with the person who has lawful custody of the child following a temporary order made under subsection 94 (2) or an order made under subsection 101 (1) or clause 116 (1) (a) or (b).

Notice

(2) An order shall not be made under subsection (1) unless notice of the proceeding has been served personally on the person to be named in the order.

Duration of the order

(3) An order made under subsection (1) shall continue in force for such period as the court considers in the best interests of the child and,

- (a) if the order is made in addition to a temporary order made under subsection 94 (2) or an order made under subsection 101 (1) or clause 116 (1) (a), (b) or (c), the order may provide that it continues in force, unless it is varied, extended or terminated by the court, as long as the temporary order made under subsection 94 (2) or the order made under subsection 101 (1) or clause 116 (1) (a), (b) or (c), as the case may be, remains in force; or
- (b) if the order is made instead of an order under subsection 101 (1) or clause 116 (1) (a), (b) or (c) or if the order is made in addition to an order under clause 116 (1) (d), the order may provide that it continues in force until it is varied or terminated by the court.

Application for extension, variation or termination

(4) An application for the extension, variation or termination of an order made under subsection (1) may be made by,

- (a) the person who is the subject of the order;
- (b) the child;
- (c) the person having charge of the child;
- (d) a society;
- (e) a Director; or
- (f) in the case of a First Nations, Inuk or Métis child, a person described in clause (a), (b), (c), (d) or (e) or a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Order for extension, variation or termination

(5) Where an application is made under subsection (4), the court may, in the child's best interests,

- (a) extend the order for such period as the court considers to be in the best interests of the child, in the case of an order described in clause (3) (a); or
- (b) vary or terminate the order.

Child in society's care not to be returned while order in force

(6) Where a society has care of a child and an order made under subsection (1) prohibiting a person's access to the child is in force, the society shall not return the child to the care of,

- (a) the person named in the order; or
- (b) a person who may permit that person to have access to the child.

Legal claim for recovery because of abuse

138 (1) In this section,

"to suffer abuse", when used in reference to a child, means to be in need of protection within the meaning of clause 74 (2) (a), (c), (e), (f), (g) or (j).

Recovery on child's behalf

(2) When the Children's Lawyer is of the opinion that a child has a cause of action or other claim because the child has suffered abuse and considers it to be in the child's best interests, the Children's Lawyer may institute and conduct proceedings on the child's behalf for the recovery of damages or other compensation.

Society may apply

(3) Where a child is in a society's care and custody, subsection (2) also applies to the society with necessary modifications.

Prohibition

139 No person shall place a child in the care and custody of a society, and no society shall take a child into its care and custody, except in accordance with this Part.

Offences re interfering, etc. with child in society supervision or care

140 If a child is the subject of an order for society supervision, interim society care or extended society care made under paragraph 1, 2 or 3 of subsection 101 (1) or clause 116 (1) (a) or (c), no person shall,

- (a) induce or attempt to induce the child to leave the care of the person with whom the child is placed by the court or by the society, as the case may be;
- (b) detain or harbour the child after the person or society referred to in clause (a) requires that the child be returned;
- (c) interfere with the child or remove or attempt to remove the child from any place; or
- (d) for the purpose of interfering with the child, visit or communicate with the person referred to in clause (a).

Offences re false information, obstruction, etc.

141 No person shall,

- (a) knowingly give false information in an application under this Part; or
- (b) obstruct, interfere with or attempt to obstruct or interfere with a child protection worker or a peace officer who is acting under section 81, 83, 84, 85 or 86.

Other offences

142 (1) A person who contravenes,

- (a) an order for access made under subsection 104 (1);
- (b) subsection 130 (6) (disclosure of information);
- (c) subsection 133 (6) or (10) (confidentiality of child abuse register);
- (d) an order made under subsection 134 (8) (amendment of society's records);
- (e) subsection 136 (3) or (4) (leaving child unattended, etc.);
- (f) a restraining order made under subsection 137 (1);
- (g) section 139 (unauthorized placement);
- (h) any provision of section 140 (interference with child, etc.); or

(i) clause 141 (a) or (b) (false information, obstruction, etc.),

and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

Offence of child abuse

(2) A person who contravenes subsection 136 (2) (child abuse), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both.

Offences re publication

(3) A person who contravenes subsection 87 (8) or 134 (11) (publication of identifying information) or an order prohibiting publication made under clause 87 (7) (c) or subsection 87 (9), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than three years, or to both.

Injunction

143 (1) The Superior Court of Justice may grant an injunction to restrain a person from contravening section 140, on the society's application.

Variation, etc.

(2) The court may vary or terminate an order made under subsection (1), on any person's application.

PART VI YOUTH JUSTICE

Definitions

144 In this Part,

"bailiff" means a bailiff appointed under clause 146 (1) (c); ("huissier")

"Board" means the Custody Review Board continued under subsection 151 (1); ("Commission")

"probation officer" means,

- (a) a person appointed or designated by the Lieutenant Governor in Council or their delegate to perform any of the duties or functions of a youth worker under the *Youth Criminal Justice Act* (Canada), or
- (b) a probation officer appointed under clause 146 (1) (b); ("agent de probation")

PROGRAMS AND OFFICERS

Programs

Secure and open temporary detention programs

145 (1) The Minister may establish the following in places of temporary detention:

- 1. Secure temporary detention programs, in which restrictions are continuously imposed on the liberty of young persons by physical barriers, close staff supervision or limited access to the community.
- 2. Open temporary detention programs, in which restrictions that are less stringent than in a secure temporary detention program are imposed on the liberty of young persons.

Secure custody programs

(2) The Minister may establish secure custody programs in places of secure custody.

Open custody programs

(3) The Minister may establish open custody programs in places of open custody.

Where locking up permitted

(4) A place of secure custody and a place of secure temporary detention may be locked for the detention of young persons.

Appointments by Minister

146 (1) The Minister may appoint any person or class of persons as,

- (a) a provincial director, to perform any or all of the duties and functions of a provincial director,
 - (i) under the *Youth Criminal Justice Act* (Canada), and
 - (ii) under this Act and the regulations;

- (b) a probation officer, to perform any or all of the duties and functions,
 - (i) of a youth worker under the *Youth Criminal Justice Act* (Canada),
 - (ii) of a probation officer for purposes related to young persons under the *Provincial Offences Act*, and
 - (iii) of a probation officer under this Act and the regulations; and
- (c) a bailiff, to perform any or all of the duties and functions of a bailiff under the regulations.

Conditions or limitations on appointments

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject.

Probation officer and bailiff have powers of peace officer

(3) While performing their duties and functions, a probation officer appointed under clause (1) (b) and a bailiff appointed under clause (1) (c) have the powers of a peace officer.

Designation of peace officers

- (4) The Minister may designate in writing,
- (a) a person who is an employee in the Ministry or is employed in a place of open custody, of secure custody or of temporary detention to be a peace officer while performing the person's duties and functions; or
 - (b) a class of persons, from among the persons described in clause (a), to be peace officers while performing their duties and functions.

Conditions or limitations on designations

(5) The Minister may set out in a designation made under subsection (4) any conditions or limitations to which it is subject.

Remuneration and expenses

(6) The remuneration and expenses of a person appointed under subsection (1) who is not a public servant employed under Part III of the *Public Service of Ontario Act, 2006* shall be fixed by the Minister and shall be paid out of legislative appropriations.

Reports and information

147 A person in charge of a place of temporary detention, of open custody or of secure custody, a bailiff and a probation officer,

- (a) shall make the prescribed reports and provide the prescribed information to the Minister, in the prescribed form and at the prescribed intervals; and
- (b) shall make a report and provide information to the Minister whenever the Minister requests it.

TEMPORARY DETENTION

Open and secure temporary detention

Open temporary detention unless provincial director determines otherwise

148 (1) A young person who is detained under the *Youth Criminal Justice Act* (Canada) in a place of temporary detention shall be detained in a place of open temporary detention unless a provincial director determines under subsection (2) that the young person is to be detained in a place of secure temporary detention.

Where secure temporary detention available

(2) A provincial director may detain a young person in a place of secure temporary detention if the provincial director is satisfied that it is necessary on one of the following grounds:

- I. The young person is charged with an offence for which an adult would be liable to imprisonment for five years or more and,
 - i. the offence includes causing or attempting to cause serious bodily harm to another person,
 - ii. the young person has, at any time, failed to appear in court when required to do so under the *Youth Criminal Justice Act* (Canada) or escaped or attempted to escape from lawful detention, or
 - iii. the young person has, within the 12 months immediately preceding the offence on which the current charge is based, been convicted of an offence for which an adult would be liable to imprisonment for five years or more.

2. The young person is detained in a place of temporary detention and leaves or attempts to leave without the consent of the person in charge or is charged with having escaped or attempting to escape from lawful custody or being unlawfully at large under the *Criminal Code* (Canada).
3. The provincial director is satisfied, having regard to all the circumstances, including any substantial likelihood the young person will commit a criminal offence or interfere with the administration of justice if placed in a place of open temporary detention, that it is necessary to detain the young person in a place of secure temporary detention,
 - i. to ensure the young person's attendance at court,
 - ii. for the protection and safety of the public, or
 - iii. for the safety or security within a place of temporary detention.

Until return to secure custody

(3) Despite subsection (1), a young person who is apprehended because they have left or have not returned to a place of secure custody may be detained in a place of secure temporary detention until they are returned to the first-named place of custody.

Until determination

(4) Despite subsection (1), a young person who is detained under the *Youth Criminal Justice Act* (Canada) in a place of temporary detention may be detained in a place of secure temporary detention for a period not exceeding 24 hours while a provincial director makes a determination in respect of the young person under subsection (2).

Review of secure temporary detention

(5) A young person who is being detained in a place of secure temporary detention and who is brought before a youth justice court for a review of an order for detention made under the *Youth Criminal Justice Act* (Canada) or the *Criminal Code* (Canada) may request that the youth justice court review the level of their detention.

Powers of youth justice court

(6) The youth justice court conducting a review of an order for detention may confirm the provincial director's decision under subsection (2) or may direct that the young person be transferred to a place of open temporary detention.

Application for return to secure temporary detention

(7) A provincial director may apply to a youth justice court for a review of an order directing that a young person be transferred to a place of open temporary detention under subsection (6) on the basis that it is necessary that the young person be returned to a place of secure temporary detention because of either of the following:

1. A material change in the circumstances.
2. Any other grounds that the provincial director considers appropriate.

Powers of youth justice court

(8) The youth justice court conducting a review of an order transferring a young person to a place of open temporary detention may confirm the court's decision under subsection (6) or may direct that the young person be transferred to a place of secure temporary detention.

CUSTODY

Detention under *Provincial Offences Act*

Pre-trial detention

149 (1) Where a young person is ordered to be detained in custody under subsection 150 (4) (order for detention) or 151 (2) (further orders) of the *Provincial Offences Act*, the young person shall be detained in a place of temporary detention.

Open custody for provincial offences

(2) Where a young person is sentenced to a term of imprisonment under the *Provincial Offences Act*,

- (a) the term of imprisonment shall be served in a place of open custody, subject to subsections (3) and (4);
- (b) section 91 (reintegration leave) of the *Youth Criminal Justice Act* (Canada) applies with necessary modifications; and
- (c) sections 28 (remission) and 28.1 (determinations of remission) and Part III (Ontario Parole and Earned Release Board) of the *Ministry of Correctional Services Act* apply with necessary modifications.

Transfer to place of secure custody

(3) Where a young person is placed in open custody under clause (2) (a), the provincial director may transfer the young person to a place of secure custody if, in the opinion of the provincial director, the transfer is necessary for the safety of the young person or the safety of others in the place of open custody.

Concurrent terms

(4) Where a young person is committed to custody under the *Youth Criminal Justice Act* (Canada) and is sentenced concurrently to a term of imprisonment under the *Provincial Offences Act*, the term of imprisonment under the *Provincial Offences Act* shall be served in the same place as the sentence under the *Youth Criminal Justice Act* (Canada).

Young persons in open custody

150 Where a young person is sentenced to a term of imprisonment for breach of probation under clause 75 (d) of the *Provincial Offences Act*, to be served in open custody as set out in section 103 of that Act,

- (a) the young person shall be held in a place of open custody specified by a provincial director; and
- (b) the provisions of section 91 (reintegration leave) of the *Youth Criminal Justice Act* (Canada) apply with necessary modifications.

CUSTODY REVIEW BOARD**Custody Review Board**

151 (1) The Custody Review Board is continued under the name Custody Review Board in English and Commission de révision des placements sous garde in French and shall have the powers and duties given to it by this Part and the regulations.

Members

(2) The Board shall be composed of the prescribed number of members who shall be appointed by the Lieutenant Governor in Council.

Chair and vice-chairs

(3) The Lieutenant Governor in Council may appoint a member of the Board as chair and may appoint one or more other members as vice-chairs.

Quorum

(4) The prescribed number of members of the Board are a quorum.

Remuneration

(5) The chair and vice-chairs and the other members of the Board shall be paid the remuneration determined by the Lieutenant Governor in Council and are entitled to their reasonable and necessary travelling and living expenses while attending meetings or otherwise engaged in the work of the Board.

Duties of Board

(6) The Board shall conduct reviews under section 152 and perform such other duties as are assigned to it by the regulations.

Application to Board

152 (1) A young person may apply to the Board for a review of,

- (a) the particular place where the young person is held or to which the young person has been transferred;
- (b) a provincial director's refusal to authorize the young person's reintegration leave under section 91 of the *Youth Criminal Justice Act* (Canada); or
- (c) the young person's transfer from a place of open custody to a place of secure custody under subsection 24.2 (9) of the *Young Offenders Act* (Canada) in accordance with section 88 of the *Youth Criminal Justice Act* (Canada).

30 day time limit

(2) An application under subsection (1) must be made within 30 days of the decision, placement or transfer, as the case may be.

Duty of Board to conduct review

(3) The Board shall conduct a review with respect to an application made under subsection (1) and may do so by holding a hearing.

Advise whether hearing to be held

(4) The Board shall advise the young person whether it intends to hold a hearing or not within 10 days of receiving the young person's application.

Procedure

(5) The *Statutory Powers Procedure Act* does not apply to a hearing held under subsection (3).

Time period for review

(6) The Board shall complete its review and make a determination within 30 days of receiving a young person's application, unless,

- (a) the Board holds a hearing with respect to the application; and
- (b) the young person and the provincial director whose decision is being reviewed consent to a longer period for the Board's determination.

Board's recommendations

(7) After conducting a review under subsection (3), the Board may,

- (a) recommend to the provincial director,
 - (i) where the Board is of the opinion that the place where the young person is held or to which the young person has been transferred is not appropriate to meet the young person's needs, that the young person be transferred to another place,
 - (ii) that the young person's reintegration leave be authorized under section 91 of the *Youth Criminal Justice Act* (Canada), or
 - (iii) where the young person has been transferred as described in clause (1) (c), that the young person be returned to a place of open custody; or
- (b) confirm the decision, placement or transfer.

APPREHENSION OF YOUNG PERSONS WHO ARE ABSENT FROM CUSTODY WITHOUT PERMISSION**Apprehension****Apprehension of young person absent from place of temporary detention**

153 (1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the *Youth Criminal Justice Act* (Canada) or the *Provincial Offences Act* in a place of temporary detention has left the place without the consent of the person in charge and fails or refuses to return there may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of temporary detention.

Apprehension of young person absent from place of open custody

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 150,

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of reintegration leave under clause 150 (b),

may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of open custody or a place of temporary detention.

Young person to be returned within 48 hours

(3) A young person who is apprehended under this section shall be returned to the place from which the young person is absent within 48 hours after being apprehended unless the provincial director detains the young person in secure temporary detention under paragraph 2 of subsection 148 (2).

Warrant to apprehend young person

(4) A justice of the peace who is satisfied on the basis of a sworn information that there are reasonable and probable grounds to believe that a young person held in a place of temporary detention or open custody,

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to a place of open custody upon completion of a period of reintegration leave under clause 150 (b),

may issue a warrant authorizing a peace officer, the person in charge of the place of temporary detention or open custody or that person's delegate to apprehend the young person.

Authority to enter, etc.

(5) Where a person authorized to apprehend a young person under subsection (1) or (2) believes on reasonable and probable grounds that a young person referred to in the relevant subsection is on any premises, the person may with or without a warrant enter the premises, by force, if necessary, and search for and remove the young person.

Regulations regarding exercise of power of entry

(6) A person authorized to enter premises under subsection (5) shall exercise the power of entry in accordance with the regulations.

INSPECTIONS AND INVESTIGATIONS**Inspections and investigations**

154 (1) The Minister may designate any person to conduct such inspections or investigations as the Minister may require in connection with the administration of this Part.

Dismissal for cause for obstruction of inspection

(2) Any person employed in the Ministry who obstructs an inspection or investigation or withholds, destroys, conceals or refuses to furnish any information or thing required for purposes of an inspection or investigation may be dismissed for cause from employment.

SEARCHES**Permissible searches**

155 (1) The person in charge of a place of open custody, of secure custody or of temporary detention may authorize a search, to be carried out in accordance with the regulations, of the following:

1. The place of open custody, of secure custody or of temporary detention.
2. The person of any young person or any other person on the premises of the place of open custody, of secure custody or of temporary detention.
3. The property of any young person or any other person on the premises of the place of open custody, of secure custody or of temporary detention.
4. Any vehicle entering or on the premises of the place of open custody, of secure custody or of temporary detention.

Contraband

(2) Any contraband found during a search may be seized and disposed of in accordance with the regulations.

Meaning of contraband

(3) For the purposes of subsection (2),

“contraband” means,

- (a) anything that a young person is not authorized to have,
- (b) anything that a young person is authorized to have but in a place where they are not authorized to have it, and
- (c) anything that a young person is authorized to have but that is being used for a purpose for which they are not authorized to use it.

MECHANICAL RESTRAINTS**Mechanical restraints****Limits on use**

156 (1) The person in charge of a place of secure custody or of secure temporary detention shall ensure that no young person who is detained in the place of secure custody or of secure temporary detention is,

- (a) restrained by the use of mechanical restraints, other than in accordance with this section and the regulations;
- (b) restrained by the use of mechanical restraints as a means of punishment.

Conditions for use

(2) The person in charge of a place of secure custody or of secure temporary detention may authorize the use of mechanical restraints on a young person who is detained in the place of secure custody or of secure temporary detention only if all of the following are satisfied:

1. There is an imminent risk, if mechanical restraints were not used, that:
 - i. the young person or another person would suffer physical injury,
 - ii. the young person would escape the place of secure custody or of secure temporary detention, or
 - iii. the young person would cause significant property damage.
2. Alternatives to the use of mechanical restraints would not be, or have not been, effective to reduce or eliminate the risk referred to in paragraph 1.
3. The use of the mechanical restraints is reasonably necessary to reduce or eliminate the risk referred to in paragraph 1.

Exception for transportation

(3) Despite subsection (2), mechanical restraints may be used on a young person who is detained in a place of secure custody or of secure temporary detention where it is reasonably necessary for the transportation of the young person to another place of custody or detention, or to or from court or the community.

PART VII EXTRAORDINARY MEASURES

Definitions

157 In this Part,

“administrator” means the person in charge of a secure treatment program; (“administrateur”)

“intrusive procedure” means,

- (a) the use of mechanical restraints,
- (b) an aversive stimulation technique, or
- (c) any other procedure that is prescribed as an intrusive procedure; (“technique d’ingérence”)

“mental disorder” means a substantial disorder of emotional processes, thought or cognition which grossly impairs a person’s capacity to make reasoned judgments; (“trouble mental”)

“psychotropic drug” means a drug or combination of drugs prescribed as a psychotropic drug; (“psychotrope”)

“secure de-escalation room” means a locked room approved under subsection 173 (1) for use for the de-escalation of situations and behaviour involving children or young persons; (“pièce de désescalade sous clé”)

“secure treatment program” means a program established or approved by the Minister under subsection 158 (1). (“programme de traitement en milieu fermé”)

SECURE TREATMENT PROGRAMS

Secure treatment programs**Minister may establish or approve programs**

158 (1) The Minister may,

- (a) establish, operate and maintain; or
- (b) approve,

programs for the treatment of children with mental disorders, in which continuous restrictions are imposed on the liberty of the children.

Terms and conditions

(2) The Minister may impose terms and conditions on an approval given under subsection (1) and may vary or amend the terms and conditions or impose new terms and conditions at any time.

Admission of children

(3) No child shall be admitted to a secure treatment program except by a court order under section 164 (commitment to secure treatment program) or under section 171 (emergency admission).

Locking up permitted

159 The premises of a secure treatment program may be locked for the detention of children.

Mechanical restraints permitted

160 (1) Subject to subsection (3), an administrator may use and permit the use of mechanical restraints on a child as a means of controlling the child’s behaviour.

Consent not required

(2) An administrator is not required to obtain the consent of or on behalf of the child before using mechanical restraints under this section.

Limitations

(3) An administrator shall ensure that mechanical restraints are not used on a child in a secure treatment program except,

- (a) in accordance with this Part, the policies established under subsection (4) and the regulations; and
- (b) in an emergency situation under the common law duty of a caregiver to restrain or confine a person when immediate action is necessary to prevent serious bodily harm to the person or others.

Policy

- (4) A service provider that is approved to provide a secure treatment program shall,
- (a) establish a policy on the use of mechanical restraints that complies with this Act and the regulations; and
 - (b) ensure that the administrator and the employees of the program comply with the policy.

COMMITMENT TO SECURE TREATMENT**Application for order for child's commitment**

161 (1) Any one of the following persons may, with the administrator's written consent, apply to the court for an order for the child's commitment to a secure treatment program:

1. Where the child is younger than 16,
 - i. the child's parent,
 - ii. a person other than an administrator who is caring for the child, if the child's parent consents to the application, or
 - iii. a society that has custody of the child under an order made under Part V (Child Protection).
2. Where the child is 16 or older,
 - i. the child,
 - ii. the child's parent, if the child consents to the application,
 - iii. a society that has custody of the child under an order made under Part V (Child Protection), if the child consents to the application, or
 - iv. a physician.

Time for hearing

(2) Where an application is made under subsection (1), the court shall deal with the matter within 10 days of the making of an order under subsection (6) (legal representation) or, where no such order is made, within 10 days of the making of the application.

Adjournments

(3) The court may adjourn the hearing of an application but shall not adjourn it for more than 30 days unless the applicant and the child consent to the longer adjournment.

Interim order

(4) Where a hearing is adjourned, the court may make a temporary order for the child's commitment to a secure treatment program if the court is satisfied that the child meets the criteria for commitment set out in clauses 164 (1) (a) to (f) and, where the child is younger than 12, the Minister consents to the child's admission.

Evidence on adjournments

(5) For the purpose of subsection (4), the court may admit and act on evidence that the court considers credible and trustworthy in the circumstances.

Legal representation of child

(6) Where an application is made under subsection (1) in respect of a child who does not have legal representation, the court shall, as soon as practicable and in any event before the hearing of the application, direct that legal representation be provided for the child.

Hearing private

(7) A hearing under this section shall be held in the absence of the public and no media representative shall be permitted to attend.

Child entitled to be present

- (8) The child who is the subject of an application under subsection (1) is entitled to be present at the hearing unless,
- (a) the court is satisfied that being present at the hearing would cause the child emotional harm; or
 - (b) the child, after obtaining legal advice, consents in writing to the holding of the hearing without the child's presence.

Court may require child's presence

(9) The court may require a child who has consented to the holding of the hearing without the child being present under clause (8) (b) to be present at all or part of the hearing.

Oral evidence

162 (1) Where an application is made under subsection 161 (1), the court shall deal with the matter by holding a hearing and shall hear oral evidence unless the child, after obtaining legal advice, consents in writing to the making of an order under subsection 164 (1) without the hearing of oral evidence, and the consent is filed with the court.

Court may hear oral evidence despite consent

(2) The court may hear oral evidence although the child has given a consent under subsection (1).

Time limitation

(3) A child's consent under subsection (1) is not effective for more than the period referred to in subsection 165 (1) (period of commitment).

Assessment

163 (1) The court may, at any time after an application is made under subsection 161 (1), order that the child attend within a specified time for an assessment before a specified person who is qualified, in the court's opinion, to perform an assessment to assist the court to determine whether the child should be committed to a secure treatment program and has consented to perform the assessment.

Report

(2) The person performing an assessment under subsection (1) shall make a written report of the assessment to the court within the time specified in the order, which shall not be more than 30 days unless the court is of the opinion that a longer assessment period is necessary.

Who may not perform assessment

(3) The court shall not order an assessment to be performed by a person who provides services in the secure treatment program to which the application relates.

Copies of report

(4) The court shall provide a copy of the report to,

- (a) the applicant;
- (b) the child, subject to subsection (6);
- (c) the child's lawyer;
- (d) a parent appearing at the hearing;
- (e) a society that has custody of the child under an order made under Part V (Child Protection);
- (f) the administrator; and
- (g) in the case of a First Nations, Inuk or Métis child, the persons described in clauses (a), (b), (c), (d), (e) and (f) and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Same

(5) The court may cause a copy of the report to be given to a parent who does not attend the hearing but is, in the court's opinion, actively interested in the proceedings.

Court may withhold report from child

(6) The court may withhold all or part of the report from the child where the court is satisfied that disclosure of all or part of the report to the child would cause the child emotional harm.

Commitment to secure treatment: criteria

164 (1) The court may order that a child be committed to a secure treatment program only where the court is satisfied that,

- (a) the child has a mental disorder;
- (b) the child has, as a result of the mental disorder, within the 45 days immediately preceding,
 - (i) the application under subsection 161 (1),
 - (ii) the child's detention or custody under the *Youth Criminal Justice Act* (Canada) or under the *Provincial Offences Act*, or
 - (iii) the child's admission to a psychiatric facility under the *Mental Health Act* as an involuntary patient, caused or attempted to cause serious bodily harm to himself or another person;
- (c) the child has,

- (i) within the 12 months immediately preceding the application, but on another occasion than that referred to in clause (b), caused, attempted to cause or by words or conduct made a substantial threat to cause serious bodily harm to himself or another person, or
- (ii) in committing the act or attempt referred to in clause (b), caused or attempted to cause a person's death;
- (d) the secure treatment program would be effective to prevent the child from causing or attempting to cause serious bodily harm to himself or another person;
- (e) treatment appropriate for the child's mental disorder is available at the place of secure treatment to which the application relates; and
- (f) no less restrictive method of providing treatment appropriate for the child's mental disorder is appropriate in the circumstances.

Where child younger than 12

(2) Where the child is younger than 12, the court shall not make an order under subsection (1) unless the Minister consents to the child's commitment.

Additional requirement where applicant is physician

(3) Where the applicant is a physician, the court shall not make an order under subsection (1) unless the court is satisfied that the applicant believes the criteria set out in that subsection are met.

Period of commitment

165 (1) The court shall specify in an order under subsection 164 (1) the period not exceeding 180 days for which the child shall be committed to the secure treatment program.

Where society is applicant

(2) Where a child is committed to a secure treatment program on a society's application and the period specified in the court's order is greater than 60 days, the child shall be released on a day 60 days after the child's admission to the secure treatment program unless before that day,

- (a) the child's parent consents to the child's commitment for a longer period; or
- (b) the child is made the subject of an order for interim society care under paragraph 2 of subsection 101 (1) or for extended society care under paragraph 3 of subsection 101 (1) or clause 116 (1) (c),

but in no case shall the child be committed to the secure treatment program for longer than the period specified under subsection (1).

How time calculated

(3) In the calculation of a child's period of commitment, time spent in the secure treatment program before an order has been made under section 164 (commitment) or pending an application under section 167 (extension) shall be counted.

Where order expires after 18th birthday

(4) A person who is the subject of an order made under subsection 164 (1) or 167 (5) may be kept in the secure treatment program after turning 18, until the order expires.

Reasons, plans, etc.

166 (1) Where the court makes an order under subsection 164 (1) or 167 (5), the court shall give,

- (a) reasons for its decision;
- (b) a statement of the plan, if any, for the child's care on release from the secure treatment program; and
- (c) a statement of the less restrictive alternatives considered by the court, and the reasons for rejecting them.

Plan for care on release

(2) Where no plan for the child's care on release from the secure treatment program is available at the time of the order, the administrator shall, within 90 days of the date of the order, prepare such a plan and file it with the court.

EXTENSION OF PERIOD OF COMMITMENT

Extension

167 (1) Where a child is the subject of an order made under subsection 164 (1) (commitment) or subsection (5),

- (a) a person referred to in subsection 161 (1), with the administrator's written consent; or
- (b) the administrator, with a parent's written consent or, where the child is in a society's lawful custody, the society's consent,

may, before the expiry of the period of commitment, apply for an order extending the child's commitment to the secure treatment program.

Same

(2) Where a person is kept in the secure treatment program under subsection 165 (4) after turning 18,

- (a) the person, with the written consent of the administrator;
- (b) the person's parent, with the written consent of the person and the administrator;
- (c) a physician, with the written consent of the administrator and the person; or
- (d) the administrator, with the written consent of the person,

may, before the expiry of the period of commitment, apply for one further order extending the person's commitment to the secure treatment program.

Person may be kept in program while application pending

(3) Where an application is made under subsection (1) or (2), the person may be kept in the secure treatment program until the application is disposed of.

ss. 161 (3), (6-9), 162, 163 apply

(4) Subsections 161 (3), (6), (7), (8) and (9) (hearing) and sections 162 (waive oral evidence) and 163 (assessment) apply with necessary modifications to an application made under subsection (1) or (2).

Criteria for extension

(5) The court may make an order extending a child's commitment to a secure treatment program only where the court is satisfied that,

- (a) the child has a mental disorder;
- (b) the secure treatment program would be effective to prevent the child from causing or attempting to cause serious bodily harm to himself or another person;
- (c) no less restrictive method of providing treatment appropriate for the child's mental disorder is appropriate in the circumstances;
- (d) the child is receiving the treatment proposed at the time of the original order under subsection 164 (1), or other appropriate treatment; and
- (e) there is an appropriate plan for the child's care on release from the secure treatment program.

Period of extension

(6) The court shall specify in an order under subsection (5) the period not exceeding 180 days for which the child shall be committed to the secure treatment program.

RELEASE BY ADMINISTRATOR

Release

Unconditional release by administrator

168 (1) The administrator may release a child from a secure treatment program unconditionally where the administrator,

- (a) has given the person with lawful custody of the child reasonable notice of the intention to release the child; and
- (b) is satisfied that,
 - (i) the child no longer requires the secure treatment program, and
 - (ii) there is an appropriate plan for the child's care on release from the secure treatment program.

Conditional release

(2) The administrator may release a child from a secure treatment program temporarily for medical or compassionate reasons, or for a trial placement in an open setting, for such period and on such terms and conditions as the administrator determines.

Administrator may release despite court order

(3) Subsections (1) and (2) apply despite an order made under subsection 164 (1) (commitment) or 167 (5) (extension)

REVIEW OF COMMITMENT

Review of commitment

169 (1) Any one of the following persons may apply to the court for an order terminating an order made under subsection 164 (1) (commitment) or 167 (5) (extension):

1. The child, where the child is 12 or older.
2. The child's parent.
3. The society having care, custody or supervision of the child.

ss. 161 (3), (6-9), 162, 163 apply

(2) Subsections 161 (3), (6), (7), (8) and (9) (hearing) and sections 162 (waive oral evidence) and 163 (assessment) apply with necessary modifications to an application made under subsection (1).

Termination of order

(3) The court shall make an order terminating a child's commitment unless the court is satisfied that,

- (a) the child has a mental disorder;
- (b) the secure treatment program would continue to be effective to prevent the child from causing or attempting to cause serious bodily harm to himself or another person;
- (c) no less restrictive method of providing treatment appropriate for the child's mental disorder is appropriate in the circumstances; and
- (d) the child is receiving the treatment proposed at the time of the most recent order under subsection 164 (1) or 167 (5), or other appropriate treatment.

Same

(4) In making an order under subsection (3), the court shall consider whether there is an appropriate plan for the child's care on release from the secure treatment program.

ss. 167 (3-6), 168, 169 apply

170 Subsections 167 (3), (4), (5) and (6) and sections 168 and 169 apply with necessary modifications to a person who is 18 or older and committed to a secure treatment program as if the person were a child.

EMERGENCY ADMISSION

Emergency admission

171 (1) Any one of the following persons may apply to the administrator for the emergency admission of a child to a secure treatment program:

1. Where the child is younger than 16,
 - i. the child's parent,
 - ii. a person who is caring for the child with a parent's consent,
 - iii. a child protection worker who brought the child to a place of safety under section 81, or
 - iv. a society that has custody of the child under an order made under Part V (Child Protection).
2. Where the child is 16 or older,
 - i. the child,
 - ii. the child's parent, if the child consents to the application,
 - iii. a society that has custody of the child under an order made under Part V (Child Protection), if the child consents to the application, or
 - iv. a physician.

Criteria for admission

(2) The administrator may admit a child to the secure treatment program on an application under subsection (1) for a period not to exceed 30 days where the administrator believes on reasonable grounds that,

- (a) the child has a mental disorder;
- (b) the child has, as a result of the mental disorder, caused, attempted to cause or by words or conduct made a substantial threat to cause serious bodily harm to himself or another person;

- (c) the secure treatment program would be effective to prevent the child from causing or attempting to cause serious bodily harm to himself or another person;
- (d) treatment appropriate for the child's mental disorder is available at the place of secure treatment to which the application relates; and
- (e) no less restrictive method of providing treatment appropriate for the child's mental disorder is appropriate in the circumstances.

Admission on consent

(3) The administrator may admit the child under subsection (2) although the criterion set out in clause (2) (b) is not met, where,

- (a) the other criteria set out in subsection (2) are met;
- (b) the child, after obtaining legal advice, consents to the admission; and
- (c) if the child is younger than 16, the child's parent or, where the child is in a society's lawful custody, the society consents to the child's admission.

Where child younger than 12

(4) Where the child is younger than 12, the administrator shall not admit the child under subsection (2) unless the Minister consents to the child's admission.

Additional requirement where applicant is physician

(5) Where the applicant is a physician, the administrator shall not admit the child under subsection (2) unless the administrator is satisfied that the applicant believes the criteria set out in that subsection are met.

Notices required

(6) The administrator shall ensure that within 24 hours after a child is admitted to a secure treatment program under subsection (2),

- (a) the child is given written notice of the child's right to a review under subsection (9); and
- (b) the Provincial Advocate for Children and Youth and the Children's Lawyer are given notice of the admission.

Mandatory advice

(7) The Provincial Advocate for Children and Youth shall ensure that as soon as possible after the notice is received a person who is not employed to provide services in the secure treatment program explains to the child the child's right to a review in language suitable to the child's understanding.

Children's Lawyer to ensure child represented

(8) The Children's Lawyer shall represent the child at the earliest possible opportunity and in any event within five days after receiving a notice under subsection (6) unless the Children's Lawyer is satisfied that another person will provide legal representation for the child within that time.

Application for review

(9) Where a child is admitted to a secure treatment program under this section, any person, including the child, may apply to the Board for an order releasing the child from the secure treatment program.

Child may be kept in program while application pending

(10) Where an application is made under subsection (9), the child may be kept in the secure treatment program until the application is disposed of.

Procedure

(11) Subsections 161 (7), (8) and (9) (hearing) and section 162 (waive oral evidence) apply with necessary modifications to an application made under subsection (9).

Time for review

(12) Where an application is made under subsection (9), the Board shall dispose of the matter within five days of the making of the application.

Order

(13) The Board shall make an order releasing the child from the secure treatment program unless the Board is satisfied that the child meets the criteria for emergency admission set out in clauses (2) (a) to (e).

POLICE ASSISTANCE

Powers of peace officers, period of commitment

Police may take child for secure treatment

172 (1) A peace officer may take a child to a place where there is a secure treatment program,

- (a) for emergency admission, at the request of an applicant referred to in subsection 171 (1); or
- (b) where an order for the child's commitment to the secure treatment program has been made under section 164.

Apprehension of child who leaves

(2) Where a child who has been admitted to a secure treatment program leaves the facility in which the secure treatment program is located without the consent of the administrator, a peace officer may apprehend the child with or without a warrant and return the child to the facility.

Period of commitment

(3) Where a child is returned to a facility under subsection (2), the time that the child was absent from the facility shall not be taken into account in calculating the period of commitment.

SECURE DE-ESCALATION

Director's approval

173 (1) A Director may approve a locked room that complies with the prescribed standards and is located in premises where a service is provided, for use for the de-escalation of situations and behaviour involving children or young persons, on such terms and conditions as the Director determines.

Withdrawal of approval

(2) Where a Director is of the opinion that a secure de-escalation room is unnecessary or is being used in a manner that contravenes this Part or the regulations, the Director may withdraw the approval given under subsection (1) and shall give the affected service provider notice of the decision, with reasons.

Secure de-escalation

174 (1) No service provider or foster parent shall place in a locked room a child or young person who is in the service provider's or foster parent's care or permit the child or young person to be placed in a locked room, except in accordance with this section and the regulations.

Secure treatment, secure custody and secure temporary detention

(2) Subsection (1) does not prohibit the routine locking at night of rooms in the premises of secure treatment programs or in places of secure custody and places of secure temporary detention under Part VI (Youth Justice).

Criteria for use of a secure de-escalation room

(3) A child or young person may be placed in a secure de-escalation room where,

- (a) in the service provider's opinion,
 - (i) the child's or young person's conduct indicates that the child or young person is likely, in the immediate future, to cause serious property damage or to cause another person serious bodily harm, and
 - (ii) no less restrictive method of restraining the child or young person is practicable; and
- (b) where the child is younger than 12, a Director gives permission for the child to be placed in a secure de-escalation room because of exceptional circumstances.

One-hour limit

(4) A child or young person who is placed in a secure de-escalation room shall be released within one hour unless the person in charge of the premises approves the child's or young person's longer stay in a secure de-escalation room in writing and records the reasons for not restraining the child or young person by a less restrictive method.

Continuous observation

(5) Subject to subsection (9), the service provider shall ensure that a child or young person who is placed in a secure de-escalation room is continuously observed by a responsible person.

Review

(6) Where a child or young person is kept in a secure de-escalation room for more than one hour, the person in charge of the premises shall review the child's or young person's placement in a secure de-escalation room at prescribed intervals.

Release

(7) A child or young person who is placed in a secure de-escalation room shall be released as soon as the person in charge is satisfied that the child or young person is not likely to cause serious property damage or serious bodily harm in the immediate future.

Maximum periods

(8) Subject to subsection (9), in no event shall a child or young person be kept in a secure de-escalation room for a period or periods that exceed an aggregate of eight hours in a given 24-hour period or an aggregate of 24 hours in a given week.

Exception

(9) A service provider is not required to comply with subsections (5) and (8) with respect to a young person who is 16 or older and who is held in a place of secure custody or of secure temporary detention, but a service provider shall comply with the following standards and procedures and with any additional standards and procedures that may be prescribed:

1. The young person must be observed every 15 minutes by a responsible person and these observations must be recorded in the young person's case record.
2. The service provider must determine whether, given the needs of the young person, the young person should be observed at regular intervals that are more frequent than every 15 minutes, and, if that determination is made, the young person must be observed by a responsible person at the more frequent intervals determined by the service provider and these observations must be recorded in the young person's case record.
3. The young person must not be kept in a secure de-escalation room for a continuous period in excess of 24 hours or for a period or periods that exceed an aggregate of 24 hours in a seven-day period.
4. Despite paragraph 3, the service provider may extend a young person's placement in a secure de-escalation room for a continuous period beyond 24 hours or for an aggregate of more than 24 hours in a given seven-day period, if the provincial director approves the extension.
5. The provincial director may approve the extension of the placement of a young person in a secure de-escalation room beyond 24 continuous hours or beyond an aggregate of 24 hours in a given seven-day period if the provincial director has reasonable and probable grounds to believe that the young person's continued placement in a secure de-escalation room is necessary for the safety of staff or young persons in the facility.

Review of use of secure de-escalation

175 A person in charge of premises containing a secure de-escalation room shall review,

- (a) the need for the secure de-escalation room; and
- (b) the prescribed matters,

every three months or, in the case of secure custody or secure temporary detention, every six months from the date on which the secure de-escalation room is approved under subsection 173 (1), shall make a written report of each review to a Director and shall make such additional reports as are prescribed.

PSYCHOTROPIC DRUGS**Consent required for use of psychotropic drugs**

176 A service provider shall not administer or permit the administration of a psychotropic drug to a child or young person in the service provider's care without a consent in accordance with the *Health Care Consent Act, 1996*.

PROFESSIONAL ADVISORY BOARD**Professional Advisory Board**

177 (1) The Minister may establish a Professional Advisory Board, composed of physicians and other professionals who,

- (a) have special knowledge in the use of intrusive procedures and psychotropic drugs;
- (b) have demonstrated an informed concern for the welfare and interests of children; and
- (c) are not employed in the Ministry.

Chair

(2) The Minister shall appoint one of the members of the Professional Advisory Board as its chair.

Duties of Board

(3) The Professional Advisory Board shall, at the Minister's request,

- (a) advise the Minister on prescribing procedures as intrusive procedures;
- (b) investigate and review the use of intrusive procedures and psychotropic drugs and make recommendations to the Minister; and
- (c) review the practices and procedures of service providers with respect to,
 - (i) secure de-escalation,
 - (ii) intrusive procedures, and
 - (iii) psychotropic drugs,

and make recommendations to the Minister.

Request for review

178 Any person may request that the Minister refer the matter of the use of a secure de-escalation room or an intrusive procedure in respect of a child or young person, or the administration of a psychotropic drug to a child or young person, to the Professional Advisory Board for investigation and review.

PART VIII ADOPTION AND ADOPTION LICENSING

INTERPRETATION

Interpretation

179 (1) In this Part,

“birth parent” means a person who satisfies the prescribed criteria; (“parent de naissance”)

“birth relative” means,

- (a) in respect of a child who has not been adopted, a relative of the child, and
- (b) in respect of a child who has been adopted, a person who would have been a relative of the child if the child had not been adopted; (“membre de la parenté de naissance”)

“birth sibling” means, in respect of a person, a child of the same birth parent as the person, and includes a child adopted by the birth parent and a person whom the birth parent has demonstrated a settled intention to treat as a child of their family; (“frère ou soeur de naissance”)

“openness agreement” means an agreement referred to in section 212; (“accord de communication”)

“openness order” means an order made by a court in accordance with this Act for the purposes of facilitating communication or maintaining a relationship between the child and,

- (a) a birth parent, birth sibling or birth relative of the child,
- (b) a person with whom the child has a significant relationship or emotional tie, including a foster parent of the child or a member of the child's extended family or community, or
- (c) in the case of a First Nations, Inuk or Métis child,
 - (i) a person described in clause (a) or (b), or
 - (ii) a member of the child's bands and First Nations, Inuit or Métis communities who may not have had a significant relationship or emotional tie with the child in the past but will help the child to develop or maintain a connection with the child's First Nations, Inuit or Métis cultures, heritages and traditions and to preserve the child's cultural identity and connection to community; (“ordonnance de communication”)

“spouse” has the same meaning as in Parts I and II of the *Human Rights Code*. (“conjoint”)

Best interests of child

(2) Where a person is directed in this Part to make an order or determination in the best interests of a child, the person shall,

- (a) consider the child's views and wishes, given due weight in accordance with the child's age and maturity, unless they cannot be ascertained;

- (b) in the case of a First Nations, Inuk or Métis child, consider the importance, in recognition of the uniqueness of First Nations, Inuit and Métis cultures, heritages and traditions, of preserving the child's cultural identity and connection to community, in addition to the considerations under clauses (a) and (c); and
- (c) consider any other circumstance of the case that the person considers relevant, including,
 - (i) the child's physical, mental and emotional needs, and the appropriate care or treatment to meet those needs,
 - (ii) the child's physical, mental and emotional level of development,
 - (iii) the child's race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity and gender expression,
 - (iv) the child's cultural and linguistic heritage,
 - (v) the importance for the child's development of a positive relationship with a parent and a secure place as a member of a family,
 - (vi) the child's relationships and emotional ties to a parent, sibling, relative, other member of the child's extended family or member of the child's community,
 - (vii) the importance of continuity in the child's care and the possible effect on the child of disruption of that continuity, and
 - (viii) the effects on the child of delay in the disposition of the case.

CONSENT TO ADOPTION

Consents

180 (1) In this section,

"parent", when used in reference to a child, means each of the following persons, but does not include a licensee or a foster parent:

1. A parent of the child under section 6, 8, 9, 10, 11 or 13 of the *Children's Law Reform Act*.
2. In the case of a child conceived through sexual intercourse, an individual described in one of paragraphs 1 to 5 of subsection 7 (2) of the *Children's Law Reform Act*, unless it is proved on a balance of probabilities that the sperm used to conceive the child did not come from the individual.
3. An individual who has been found or recognized by a court of competent jurisdiction outside Ontario to be a parent of the child.
4. In the case of an adopted child, a parent of the child as provided for under section 217 or 218 of this Act.
5. An individual who has lawful custody of the child.
6. An individual who, during the 12 months before the child is placed for adoption under this Part, has demonstrated a settled intention to treat the child as a child of the individual's family, or has acknowledged parentage of the child and provided for the child's support.
7. An individual who, under a written agreement or a court order, is required to provide for the child, has custody of the child or has a right of access to the child.
8. An individual who acknowledged parentage of the child by filing a statutory declaration under section 12 of the *Children's Law Reform Act* as it read before the day subsection 1 (1) of the *All Families Are Equal Act (Parentage and Related Registrations Statute Law Amendment)*, 2016 came into force.

Consent of parent, etc.

(2) An order for the adoption of a child who is younger than 16, or is 16 or older but has not withdrawn from parental control, shall not be made without,

- (a) the written consent of every parent; or
- (b) where the child is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), the written consent of a Director.

Same

(3) A consent under clause (2) (a) shall not be given before the child is seven days old.

Same

(4) Where a child is being placed for adoption by a society or licensee, a consent under clause (2) (a) shall not be given until

- (a) the society or licensee has advised the parent of the parent's right,

- (i) to withdraw the consent under subsection (8), and
- (ii) to be informed, on their request, whether an adoption order has been made in respect of the child;
- (b) the society or licensee has advised the parent of such other matters as may be prescribed; and
- (c) the society or licensee has given the parent an opportunity to seek counselling and independent legal advice with respect to the consent.

Custody of child

(5) Where,

- (a) a child is being placed for adoption by a society or licensee;
- (b) every consent required under subsection (2) has been given and has not been withdrawn under subsection (8); and
- (c) the 21-day period referred to in subsection (8) has expired,

the rights and responsibilities of the child's parents with respect to the child's custody, care and control are transferred to the society or licensee, until the consent is withdrawn under subsection 182 (1) (late withdrawal with leave of court) or an order is made for the child's adoption under section 199.

Consent of person to be adopted

(6) An order for the adoption of a person who is seven or older shall not be made without the person's written consent.

Same

(7) A consent under subsection (6) shall not be given until the person has had an opportunity to obtain counselling and independent legal advice with respect to the consent.

Withdrawal of consent

(8) A person who gives a consent under subsection (2) or (6) may withdraw it in writing within 21 days after the consent is given and where that person had custody of the child immediately before giving the consent, the child shall be returned to that person as soon as the consent is withdrawn.

Dispensing with person's consent

(9) The court may dispense with a person's consent required under subsection (6) where the court is satisfied that,

- (a) obtaining the consent would cause the person emotional harm; or
- (b) the person is not able to consent because of a developmental disability.

Consent of applicant's spouse

(10) An adoption order shall not be made on the application of a person who is a spouse without the written consent of the other spouse.

Consents by minors: role of Children's Lawyer

(11) Where a person who gives a consent under clause (2)(a) is younger than 18, the consent is not valid unless the Children's Lawyer is satisfied that the consent is fully informed and reflects the person's true wishes.

Affidavits of execution

(12) An affidavit of execution in the prescribed form shall be attached to a consent and a withdrawal of a consent under this section.

Form of foreign consents

(13) A consent required under this section that is given outside Ontario and whose form does not comply with the requirements of subsection (12) and the regulations is not invalid for that reason alone, if its form complies with the laws of the jurisdiction where it is given.

Dispensing with consent

181 The court may dispense with a consent required under section 180 for the adoption of a child, except the consent of the child or of a Director, where the court is satisfied that,

- (a) it is in the child's best interests to do so; and
- (b) the person whose consent is required has received notice of the proposed adoption and of the application to dispense with consent, or a reasonable effort to give the notice has been made.

Late withdrawal of consent

182 (1) The court may permit a person who gave a consent to the adoption of a child under section 180 to withdraw the consent after the 21-day period referred to in subsection 180 (8) where the court is satisfied that it is in the child's best interests to do so, and where that person had custody of the child immediately before giving the consent, the child shall be returned to that person as soon as the consent is withdrawn.

Exception: child placed for adoption

(2) Subsection (1) does not apply where the child has been placed with a person for adoption and remains in that person's care.

PLACEMENT FOR ADOPTION**Only societies and licensees may place children, etc.**

183 (1) No person except a society or licensee shall,

- (a) place a child with another person for adoption; or
- (b) take, send or attempt to take or send a child who is a resident of Ontario out of Ontario to be placed for adoption.

Only societies and certain licensees may bring children into Ontario

(2) No person except a society or a licensee whose licence contains a term permitting the licensee to act under this subsection shall bring a child who is not a resident of Ontario into Ontario to be placed for adoption.

Director's approval of proposed placement

(3) No licensee except a licensee exempted under subsection (6) shall do the following without first obtaining a Director's approval of the proposed placement under section 188:

1. Place a child who is a resident of Canada with another person for adoption.
2. Take, send or attempt to take or send a child who is a resident of Ontario out of Ontario to be placed for adoption.

Placement of child from outside Canada

(4) No licensee described in subsection (2) shall bring a child who is not a resident of Canada into Ontario to be placed for adoption without,

- (a) first obtaining a Director's approval of the person with whom the child is to be placed as eligible and suitable to adopt under section 189; and
- (b) after the approval referred to in clause (a) is obtained, obtaining a Director's approval of the proposed placement under section 190.

Director's approval required

(5) No person shall receive a child for adoption, except from a society or from a licensee exempted under subsection (6), without first receiving a Director's approval of the placement under subsection 188 (3) or 190 (2), as the case may be.

Designation of licensee

(6) A Director may designate a licensee that is an agency as exempt from the requirements of subsection (3).

Placements to be registered

(7) A society or licensee who places a child with another person for adoption shall register the placement in the prescribed manner within 30 days after placing the child.

Same: Director

(8) A Director who becomes aware of any placement for adoption of a child that has not been registered under subsection (7) shall promptly register the placement in the prescribed manner.

Exception: family adoptions within Canada, etc.

(9) Subsections (1), (2), (3), (5), (7) and (8) do not apply to,

- (a) the placement for adoption of a child with the child's relative, the child's parent or a spouse of the child's parent, if the child to be placed is a resident of Canada and the placement is within Ontario; or
- (b) the taking or sending of a child out of Ontario for adoption by the child's relative, the child's parent or a spouse of the child's parent, if the placement is within Canada.

Limitation on placement by society

184 A society shall not place a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) for adoption until,

- (a) the time for commencing an appeal of the order has expired; or
- (b) any appeal of the order has been finally disposed of or abandoned.

Adoption planning

185 (1) Nothing in this Act prohibits a society from planning for the adoption of a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) and in respect of whom there is an access order in effect under Part V (Child Protection).

Openness

(2) Where a society begins planning for the adoption of a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), the society shall consider the benefits of an openness order or openness agreement in respect of the child.

First Nations, Inuk or Métis child

186 (1) If a society intends to begin planning for the adoption of a First Nations, Inuk or Métis child, the society shall give written notice of its intention to a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Care plan proposed by band or community

(2) If a representative chosen by each of the child's bands or First Nations, Inuit or Métis communities receives notice under subsection (1), each band and community may, within 60 days of the representative receiving the notice,

- (a) prepare its own plan for the care of the child; and
- (b) submit its plan to the society.

Condition for placement

(3) A society shall not place a First Nations, Inuk or Métis child with another person for adoption until,

- (a) at least 60 days after notice is given to a representative chosen by each of the bands and First Nations, Inuit or Métis communities have elapsed; or
- (b) if a band or First Nations, Inuit or Métis community has submitted a plan for the care of the child, the society has considered the plan.

First Nations, Inuk or Métis child, openness, etc.

187 (1) Where a society begins planning for the adoption of a First Nations, Inuk or Métis child, the society shall consider the importance of developing or maintaining the child's connection to the child's bands and First Nations, Inuit or Métis communities.

Openness agreement or openness order

(2) For the purposes of subsection (1), the society shall include consideration of the benefits of,

- (a) an openness agreement in respect of the child and a member of the child's bands and First Nations, Inuit or Métis communities; or
- (b) where the child is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c), an openness order in respect of the child and a representative of the child's bands and First Nations, Inuit or Métis communities.

Child from inside Canada: proposed placement

188 (1) A licensee who intends to act as described in subsection 183 (3) shall notify a Director of the proposed placement and at the same time provide the Director with a report of an adoption homestudy of the person with whom placement is proposed.

Who may make homestudy

(2) The report of the adoption homestudy shall be prepared by a person who, in the opinion of the Director or a local director, is qualified to make an adoption homestudy.

Review by Director

(3) The Director shall review the report of the adoption homestudy promptly and,

- (a) approve the proposed placement;
- (b) approve the proposed placement subject to any conditions the Director considers appropriate, including supervision by,
 - (i) a specified society, licensee or person, or

(ii) in the case of a placement outside Ontario, a specified child welfare authority recognized in the jurisdiction of the placement or a prescribed person; or

(c) refuse to approve the proposed placement.

Notice

(4) The Director shall promptly give notice of the approval, the approval subject to conditions or the refusal, as the case may be,

(a) to the person with whom the placement is proposed; and

(b) to the licensee.

Right to hearing

(5) When a Director gives notice of a refusal or an approval subject to conditions, the person with whom placement is proposed and the licensee are entitled to a hearing before the Board.

Application of other provisions

(6) Sections 233 (hearings), 234 (review of conditions), 266 (parties) and 267 (appeal) apply to the hearing with necessary modifications and for that purpose references to the Tribunal are deemed to be references to the Board.

Extension of time

(7) If the Board is satisfied that there are reasonable grounds for the person with whom placement is proposed or the licensee to apply for an extension of the time fixed for requiring the hearing and for the Board to grant relief, it may,

(a) extend the time either before or after the expiration of the time; and

(b) give the directions that it considers proper as a result of extending the time.

Recording of evidence

(8) The evidence taken before the Board at the hearing shall be recorded.

Placement outside Canada

(9) A Director shall not approve the proposed placement of a child outside Canada unless the Director is satisfied that a prescribed special circumstance justifies the placement.

Child from outside Canada: homestudy

189 (1) A licensee who intends to bring a child who is not a resident of Canada into Ontario to be placed for adoption shall provide the Director with a report of an adoption homestudy of the person with whom placement is proposed to assess the person's eligibility and suitability to adopt.

Who may make homestudy

(2) The report of the adoption homestudy shall be prepared by a person who, in the opinion of the Director or a local director, is qualified to make an adoption homestudy.

Review by Director

(3) The Director shall review the report of the adoption homestudy promptly and,

(a) approve the person unconditionally as eligible and suitable to adopt;

(b) approve the person subject to any conditions the Director considers appropriate; or

(c) refuse to approve the person.

Notice

(4) The Director shall promptly give notice of the approval, the approval subject to conditions or the refusal, as the case may be,

(a) to the person who is the subject of the homestudy; and

(b) to the licensee.

Right to hearing

(5) When a Director gives notice of a refusal or an approval subject to conditions, the person who is the subject of the homestudy is entitled to a hearing before the Board.

Application of other provisions

(6) The following provisions apply to the hearing:

1. Sections 233 (hearings), 234 (review of conditions), 266 (parties) and 267 (appeal), with necessary modifications and for that purpose references to the Tribunal are deemed to be references to the Board.
2. Subsections 188 (7) (extension of time) and (8) (recording of evidence).

Child from outside Canada: review of proposed placement

190 (1) If a person has been approved or approved subject to conditions as eligible and suitable to adopt under section 189 and a licensee proposes to place a child with the person for adoption, the licensee shall request that a Director review the proposed placement.

Review by Director

- (2) The Director shall promptly review the proposed placement and,
- (a) approve the proposed placement unconditionally;
 - (b) approve the proposed placement subject to any conditions the Director considers appropriate, including supervision by a specified society, licensee or person; or
 - (c) refuse to approve the proposed placement.

Notice

- (3) The Director shall promptly give notice of the approval, the approval subject to conditions or the refusal, as the case may be,
- (a) to the person with whom the placement is proposed; and
 - (b) to the licensee.

Right to hearing

(4) When a Director gives notice of a refusal or an approval subject to conditions, the person with whom the placement is proposed and the licensee are entitled to a hearing before the Board.

Application of other provisions

- (5) The following provisions apply to the hearing:
1. Sections 233 (hearings), 234 (review of conditions), 266 (parties) and 267 (appeal), with necessary modifications and for that purpose references to the Tribunal are deemed to be references to the Board.
 2. Subsections 188 (7) (extension of time) and (8) (recording of evidence).

Access orders terminate

191 (1) When a child is placed for adoption by a society or licensee, every order respecting access to the child is terminated, including an access order made under Part V (Child Protection) in respect of a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c).

No interference, etc., with child in placement

- (2) Where a child has been placed for adoption by a society or licensee and no adoption order has been made, no person shall,
- (a) interfere with the child; or
 - (b) for the purpose of interfering with the child, visit or communicate with the child or with the person with whom the child has been placed.

DECISION TO REFUSE TO PLACE CHILD OR TO REMOVE CHILD AFTER PLACEMENT**Decision of society or licensee**

192 (1) This section applies if,

- (a) a society decides to refuse an application to adopt a particular child made by a foster parent or other person; or
- (b) a society or licensee decides to remove a child who has been placed with a person for adoption.

Notice of decision

- (2) The society or licensee who makes a decision referred to in subsection (1) shall,
- (a) give at least 10 days notice in writing of the decision to the person who applied to adopt the child or with whom the child had been placed for adoption;
 - (b) include in the notice under clause (a) notice of the person's right to apply for a review of the decision under subsection (3); and

- (c) in the case of a First Nations, Inuk or Métis child, give the notice required by clauses (a) and (b) and,
- (i) give at least 10 days notice in writing of the decision to a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities, and
 - (ii) after the notice is given, consult with the band or community representatives relating to the planning for the care of the child.

Application for review

(3) A person who receives notice of a decision under subsection (2) may, within 10 days after receiving the notice, apply to the Board in accordance with the regulations for a review of the decision subject to subsection (4).

Where no review

(4) If a society receives an application to adopt a child and, at the time of the application, the child had been placed for adoption with another person, the applicant is not entitled to a review of the society's decision to refuse the application.

Board hearing

(5) Upon receipt of an application under subsection (3) for a review of a decision, the Board shall hold a hearing under this section.

First Nations, Inuk or Métis child

(6) Upon receipt of an application for review of a decision relating to a First Nations, Inuk or Métis child, the Board shall give notice of the application and of the date of the hearing to a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

Practices and procedures

(7) The *Statutory Powers Procedure Act* applies to a hearing under this section and the Board shall comply with such additional practices and procedures as may be prescribed.

Composition of Board

(8) At a hearing under subsection (5), the Board shall be composed of members with the prescribed qualifications and prescribed experience.

Parties

(9) The following persons are parties to a hearing under this section:

1. The applicant.
2. The society or licensee.
3. In the case of a First Nations, Inuk or Métis child, the persons described in paragraphs 1 and 2 and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.
4. Any person that the Board adds under subsection (10).

Additional parties

(10) The Board may add a person as a party to a review if, in the Board's opinion, it is necessary to do so in order to decide all the issues in the review.

Board decision

(11) The Board shall, in accordance with its determination of which action is in the best interests of the child, confirm or rescind the decision under review and shall give written reasons for its decision.

Subsequent placement

(12) After a society or licensee has made a decision referred to in subsection (1) in relation to a child, the society shall not place the child for adoption with a person other than the person who has a right to apply for a review under subsection (3) unless,

- (a) the time for applying for a review of the decision under subsection (3) has expired and an application is not made, or
- (b) if an application for a review of the decision is made under subsection (3), the Board has confirmed the decision.

No removal before Board decision

(13) Subject to subsection (14), if a society or licensee has decided to remove a child from the care of a person with whom the child was placed for adoption, the society or licensee, as the case may be, shall not carry out the proposed removal of the child unless,

- (a) the time for applying for a review of the decision under subsection (3) has expired and an application is not made, or

- (b) if an application for a review of the decision is made under subsection (3), the Board has confirmed the decision.

Where child at risk

(14) A society or licensee may carry out a decision to remove a child from the care of a person with whom the child was placed for adoption before the expiry of the time for applying for a review under subsection (3) or at any time after the application for a review is made if, in the opinion of a Director or local director, there is a risk that the child is likely to suffer harm during the time necessary for a review by the Board.

Notice to Director

193 (1) Where a child has been placed for adoption under this Part, no order for the child's adoption has been made and,

- (a) the person with whom the child is placed asks the society or licensee that placed the child to remove the child; or

- (b) the society or licensee proposes to remove the child from the person with whom the child was placed,

the society or licensee shall notify a Director.

Same

(2) Where no order for a child's adoption has been made and a year has expired since,

- (a) the earlier of the child's placement for adoption or the giving of the most recent consent under clause 180 (2) (a); or

- (b) the most recent review under subsection (3) of this section,

whichever is later, the society or licensee shall notify a Director, unless the child is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c).

Director to review

(3) A Director who receives a notice under subsection (1) or (2) shall conduct a review in accordance with the regulations.

OPENNESS ORDERS

No access order in effect

Application for openness order

194 (1) If a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) is the subject of a plan for adoption, and no access order is in effect under Part V (Child Protection), the society having care and custody of the child may apply to the court for an openness order in respect of the child at any time before an order for adoption of the child is made under section 199.

Notice of application

(2) A society making an application under this section shall give notice of the application to,

- (a) the child;
- (b) every person who will be permitted to communicate with or have a relationship with the child if the order is made;
- (c) any person with whom the society has placed or plans to place the child for adoption; and
- (d) any society that will supervise or participate in the arrangement under the openness order.

Method of giving notice to a child

(3) Notice to a child under subsection (2) shall be given by leaving a copy with,

- (a) the Children's Lawyer;
- (b) the child's lawyer, if any; and
- (c) the child if they are 12 or older.

Openness order

(4) The court may make an openness order under this section in respect of a child if the court is satisfied that,

- (a) the openness order is in the best interests of the child;
- (b) the openness order will permit the continuation of a relationship with a person that is beneficial and meaningful to the child; and
- (c) the following entities and persons have consented to the order:
 - (i) the society,
 - (ii) the person who will be permitted to communicate with or have a relationship with the child if the order is made,

- (iii) the person with whom the society has placed or plans to place the child for adoption, and
- (iv) the child if they are 12 or older.

Termination of openness order if extended society care order terminates

(5) Any openness order made under this section in respect of a child terminates if the child ceases to be in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) by reason of an order made under subsection 116 (1).

Access order in effect**Notice of intent to place for adoption**

195 (1) This section applies where,

- (a) a society intends to place a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) for adoption; and
- (b) an order under Part V (Child Protection) is in effect respecting a person's access to the child or the child's access to another person.

Notice

(2) In the circumstances described in subsection (1), the society shall give notice to the following persons:

- 1. Every person who has been granted a right of access under the access order.
- 2. Every person with respect to whom access has been granted under the access order.

Contents of notice

(3) The society shall include in the notice the following information:

- 1. Notice that the society intends to place the child for adoption.
- 2. Notice that the access order terminates upon placement for adoption.
- 3. In the case of notice to a person described in paragraph 1 of subsection (2), the fact that the person has a right to apply for an openness order within 30 days after notice is received.
- 4. In the case of notice to a person described in paragraph 2 of subsection (2), the fact that the person described in paragraph 1 of subsection (2) has the right to apply for an openness order within 30 days after notice is received.

Method of giving notice

(4) Notice may be given by,

- (a) if the person is not a child, leaving a copy,
 - (i) with the person,
 - (ii) if the person appears to be mentally incapable in respect of an issue in the notice, with the person and with the guardian of the person's property or, if none, with the Public Guardian and Trustee, or
 - (iii) with a lawyer who accepts the notice in writing on a copy of the document; or
- (b) if the person is a child, leaving a copy,
 - (i) with the Children's Lawyer,
 - (ii) with the child's lawyer, if any, and
 - (iii) with the child, if they are 12 or older.

Alternate method

(5) On application without notice by a society, the court may order that notice under subsection (2) be given by another method chosen by the court if the society,

- (a) provides detailed evidence showing,
 - (i) what steps have been taken to locate the person to whom the notice is to be given, and
 - (ii) if the person has been located, what steps have been taken to give the notice to the person; and
- (b) shows that the method of giving notice could reasonably be expected to bring the notice to the person's attention.

Notice not required

(6) On application without notice by a society, the court may order that the society is not required to give notice under subsection (2) if,

- (a) reasonable efforts to locate the person to whom the notice is to be given have not been or would not be successful; and
- (b) there is no method of giving notice that could reasonably be expected to bring the notice to the person's attention.

Access order in effect**Application for openness order**

196 (1) A person described in paragraph 1 of subsection 195 (2) may, within 30 days after notice is received, apply to the court for an openness order.

Notice of application

(2) A person making an application for an openness order under this section shall give notice of the application to,

- (a) the society having care and custody of the child;
- (b) if someone other than the child is bringing the application, the child; and
- (c) if the child is bringing the application, the person who will be permitted to communicate with or have a relationship with the child if the order is made.

Method of giving notice to child

(3) Notice to a child under subsection (2) shall be given by leaving a copy with,

- (a) the Children's Lawyer;
- (b) the child's lawyer, if any; and
- (c) the child if they are 12 or older.

Limitation on placement

(4) A society shall not place the child for adoption before the time for applying for an openness order under subsection (1) has expired unless every person who is entitled to do so has made an application for an openness order under this section.

Information before placement

(5) Where an application for an openness order under this section has been made, a society shall, before placing the child for adoption, advise the person with whom it plans to place the child of the following:

1. The fact that such an application has been made.
2. The relationship of the applicant to the child or, if the child is the applicant, the relationship of the child to the person with whom the child will be permitted to communicate or have a relationship if the order is made.
3. The details of the openness arrangement requested.

Outcome of application

(6) Where an application for an openness order under this section has been made, a society shall advise the person with whom the society has placed or plans to place the child for adoption or, after an adoption order is made, the adoptive parent, of the outcome of the application.

Openness order

(7) The court may make an openness order under this section in respect of a child if it is satisfied that,

- (a) the openness order is in the best interests of the child;
- (b) the openness order will permit the continuation of a relationship with a person that is beneficial and meaningful to the child; and
- (c) the child has consented to the order, if they are 12 or older.

Same

(8) In deciding whether to make an openness order under this section, the court shall consider the ability of the person with whom the society has placed or plans to place the child for adoption or, after the adoption order is made, the adoptive parent, to comply with the arrangement under the openness order.

Consent of society required

(9) The court shall not, under this section, direct a society to supervise or participate in the arrangement under an openness order without the consent of the society.

Termination of openness order if extended society care order terminates

(10) Any openness order made under this section in respect of a child terminates if the extended society care order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) to which the child was subject terminates by reason of an order made under subsection 116 (1).

Temporary orders

(11) The court may make such temporary order relating to openness under this section as the court considers to be in the child's best interests.

Openness order — band and First Nations, Inuit or Métis community

197 (1) This section applies where a society intends to place a First Nations, Inuk or Métis child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) for adoption.

Notice

(2) In the circumstances described in subsection (1), the society shall give notice to the following persons:

1. A representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.
2. The child.

Contents of notice

(3) The society shall include in the notice the following information:

1. Notice that the society intends to place the child for adoption.
2. The fact that the person has a right to apply for an openness order within 30 days after notice is received.
3. The fact that the society has a right to apply for an openness order within 30 days after notice is given.

Method of giving notice, etc.

(4) Where notice is required under subsection (2),

(a) notice shall be given by,

- (i) if the person is not a child, leaving a copy with the person or with a lawyer who accepts the notice in writing on a copy of the document, or
- (ii) if the person is a child, leaving a copy,
 - (A) with the Children's Lawyer,
 - (B) with the child's lawyer, if any, and
 - (C) with the child, if they are 12 or older; and

(b) subsections 195 (5) and (6) apply with necessary modifications.

Application for openness order

(5) A person described in paragraph 1 or 2 of subsection (2) may, within 30 days after notice is received, apply to the court for an openness order.

Same, society

(6) The society may, within 30 days after notice is given, apply to the court for an openness order.

Notice of application

(7) A person or society making an application for an openness order under this section shall give notice of the application to every other person or society who could have made such an application.

Method of giving notice to a child

(8) Notice to a child under subsection (7) shall be given by leaving a copy with,

- (a) the Children's Lawyer;
- (b) the child's lawyer, if any; and
- (c) the child if they are 12 or older.

Openness order

(9) The court may make an openness order under this section in respect of a child if it is satisfied that,

- (a) the openness order is in the best interests of the child;

- (b) the openness order will help the child to develop or maintain a connection with the child's First Nations, Inuit or Métis cultures, heritages and traditions and to preserve the child's cultural identity and connection to community;
- (c) the child has consented to the order, if they are 12 or older.

Application of other provisions

(10) Subsections 196 (4) to (6) and (8) to (11) apply with necessary modifications for the purposes of this section.

Application to vary or terminate openness order before adoption

198 (1) A society or a person with whom a child has been placed for adoption may apply to the court for an order to vary or terminate an openness order made under section 194, 196 or 197.

Time for making application

(2) An application under this section shall not be made after an order for the adoption of the child is made under section 199.

Notice of application

(3) A society or person making an application under this section shall give notice of the application to,

- (a) the child;
- (b) every person who is permitted to communicate with or have a relationship with the child under the openness order;
- (c) any person with whom the society has placed or plans to place the child for adoption, if the application under this section is made by the society; and
- (d) any society that supervises or participates in the arrangement under the openness order that is the subject of the application.

Method of giving notice to a child

(4) Notice to a child under subsection (3) shall be given by leaving a copy with,

- (a) the Children's Lawyer;
- (b) the child's lawyer, if any; and
- (c) the child if they are 12 or older.

Order to vary openness order before adoption

(5) The court shall not make an order to vary an openness order under this section unless the court is satisfied that,

- (a) a material change in circumstances has occurred;
- (b) the proposed order is in the child's best interests; and
- (c) either,
 - (i) the proposed order would continue a relationship that is beneficial and meaningful to the child, or
 - (ii) in the case of an openness order made under section 197, the proposed order would help the child to develop or maintain a connection with the child's First Nations, Inuit or Métis cultures, heritages and traditions and to preserve the child's cultural identity and connection to community.

Order to terminate openness order before adoption

(6) The court shall not terminate an openness order under this section unless the court is satisfied that,

- (a) a material change in circumstances has occurred;
- (b) termination of the order is in the child's best interests; and
- (c) in the case of an openness order made under section 194 or 196, the relationship that is the subject of the order is no longer beneficial and meaningful to the child.

Consent of society required

(7) The court shall not, under this section, direct a society to supervise or participate in the arrangement under an openness order without the consent of the society.

Alternative dispute resolution

(8) At any time during a proceeding under this section, the court may, in the best interests of the child and with the consent of the parties, adjourn the proceedings to permit the parties to attempt through a prescribed method of alternative dispute resolution to resolve any dispute between them with respect to any matter that is relevant to the proceeding.

Temporary orders

(9) The court may make such temporary order relating to openness under this section as the court considers to be in the child's best interests.

ADOPTION ORDERS**Orders for adoption****Adoption of child**

199 (1) The court may make an order for the adoption of a child who is younger than 16, or is 16 or older but has not withdrawn from parental control, and,

- (a) has been placed for adoption by a society or licensee; or
- (b) has been placed for adoption by a person other than a society or licensee and has resided with the applicant for at least two years,

in the child's best interests, on the application of the person with whom the child is placed.

Family adoption

(2) The court may make an order for the adoption of a child, in the child's best interests, on the application of,

- (a) a relative of the child;
- (b) the child's parent; or
- (c) the spouse of the child's parent.

Adoption of adult, etc.

(3) The court may make an order for the adoption of,

- (a) a person 18 or older; or
- (b) a child who is 16 or older and has withdrawn from parental control,

on another person's application.

Who may apply

(4) An application under this section may only be made,

- (a) by one individual; or
- (b) jointly, by two individuals who are spouses of one another.

Residency requirement

(5) The court shall not make an order under this section for the adoption of, or on the application of, a person who is not a resident of Ontario.

Where applicant a minor

200 The court shall not make an order under section 199 on the application of a person who is younger than 18 unless the court is satisfied that special circumstances justify making the order.

Where order not to be made

201 Where the court has made an order,

- (a) dispensing with a consent under section 181; or
- (b) refusing to permit the late withdrawal of a consent under subsection 182 (1),

the court shall not make an order under section 199 until the later of,

- (c) the time for commencing an appeal of the order has expired; or
- (d) any appeal of the order has been finally disposed of or abandoned.

Director's statement

202 (1) Where an application is made for an order for the adoption of a child under subsection 199 (1), a Director shall, before the hearing, file a written statement with the court indicating,

- (a) that the child has resided with the applicant for at least six months or, in the case of an application under clause 199 (1) (b), for at least two years and, in the Director's opinion, it would be in the child's best interests to make the order;

- (b) in the case of an application under clause 199 (1) (a), that for specified reasons it would be in the child's best interests, in the Director's opinion, to make the order although the child has resided with the applicant for less than six months; or
- (c) that the child has resided with the applicant for at least six months or, in the case of an application under clause 199 (1) (b), for at least two years and, in the Director's opinion, it would not be in the child's best interests to make the order.

Additional circumstances

- (2) The written statement shall refer to any additional circumstances that the Director wishes to bring to the court's attention.

Local director may make statement

- (3) Where a child was placed by a society and has resided with the applicant for at least six months, the written statement may be made and filed by the local director.

Amendment of statement, etc.

- (4) The Director or local director, as the case may be, may amend the written statement at any time and may attend at the hearing and make submissions.

Where recommendation negative

- (5) Where the written statement indicates that, in the Director's or local director's opinion, it would not be in the child's best interests to make the order, a copy of the statement shall be filed with the court and served on the applicant at least 30 days before the hearing.

Report of child's adjustment

- (6) The written statement shall be based on a report of the child's adjustment in the applicant's home, prepared by,
- (a) the society that placed the child or has jurisdiction where the child is placed; or
 - (b) a person approved by the Director or local director.

Family adoptions

- (7) Where an application is made for an order for the adoption of a child under subsection 199 (2),
- (a) subsections (1), (2), (4), (5) and (6) apply to the application, if the child was not a resident of Canada before being placed for adoption; and
 - (b) the court may order that subsections (1), (2), (4), (5) and (6) apply to the application, if the child was a resident of Canada before being placed for adoption.

Place of hearing

- 203** (1) An application for an adoption order shall be heard and dealt with in the county or district in which,

- (a) the applicant; or
- (b) the person to be adopted,

resides at the time the application is filed.

Transfer of proceeding

- (2) Where the court is satisfied at any stage of an application for an adoption order that there is a preponderance of convenience in favour of conducting it in another county or district, the court may order that it be transferred to that other county or district and be continued as if it had been commenced there.

Rules re applications**Hearing in private**

- 204** (1) An application for an adoption order shall be heard and dealt with in the absence of the public.

Court files private

- (2) No person shall have access to the court file concerning an application for an adoption order, except,
- (a) the court and authorized court employees;
 - (b) the parties and the persons representing them under the authority of the *Law Society Act*; and
 - (c) a Director and a local director.

Stale applications

- (3) Where an application for an adoption order is not heard within 12 months of the day on which the applicant signed it,

- (a) the court shall not hear the application unless the court is satisfied that it is just to do so; and
- (b) the applicant may make another application.

No right to notice

(4) A person is not entitled to receive notice of an application under section 199 if,

- (a) the person has given a consent under clause 180 (2) (a) and has not withdrawn it;
- (b) the person's consent has been dispensed with under section 181; or
- (c) the person is a parent of a child who is in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) who is placed for adoption.

Power of court

205 (1) The court may, on its own initiative, summon a person to attend before it, testify and produce any document or thing, and may enforce obedience to the summons as if it had been made in a proceeding under the *Family Law Act*.

Duty of court

(2) The court shall not make an order for the adoption of a child under subsection 199 (1) or (2) unless the court is satisfied that,

- (a) every person who has given a consent under section 180 understands the nature and effect of the adoption order; and
- (b) every applicant understands and appreciates the special role of an adoptive parent.

Participation of child

(3) Where an application is made for an order for the adoption of a child under subsection 199 (1) or (2), the court,

- (a) shall inquire into the child's capacity to understand and appreciate the nature of the application;
- (b) shall take the child's views and wishes into account and give them due weight in accordance with the child's age and maturity; and
- (c) where it is practical to do so, shall hear the child.

Participation of adult, etc.

(4) Where an application is made for an order for the adoption of a person under subsection 199 (3), the court shall consider the person's views and wishes and, on request, hear the person.

Change of name

206 (1) Where the court makes an order under section 199, the court may, at the request of the applicant or applicants and, where the person adopted is 12 or older, with the person's written consent,

- (a) change the person's surname to a surname that the person could have been given if the person had been born to the applicant or applicants; and
- (b) change the person's given name.

When child's consent not required

(2) A child's consent to a change of name under subsection (1) is not required where the child's consent was dispensed with under subsection 180 (9).

Varying or terminating openness orders after adoption

207 (1) Any of the following persons may apply to the court to vary or terminate an openness order made under section 194, 196 or 197 after an order for adoption has been made under section 199:

1. An adoptive parent.
2. The adopted child.
3. A person who is permitted to communicate or have a relationship with the child under the openness order.
4. Any society that supervises or participates in the arrangement under the openness order that is the subject of the application.

Leave

(2) Despite paragraphs 2 and 3 of subsection (1), the child and a person who is permitted to communicate or have a relationship with the child under an openness order shall not make an application under subsection (1) without leave of the court.

Jurisdiction

(3) An application under subsection (1) shall be made in the county or district,

- (a) in which the child resides, if the child resides in Ontario; or
- (b) in which the adoption order for the child was made if the child does not reside in Ontario, unless the court is satisfied that the preponderance of convenience favours having the matter dealt with by the court in another county or district.

Notice

(4) A person making an application under subsection (1) shall give notice of the application to every other person who could have made an application under that subsection with respect to the order.

Method of giving notice to a child

(5) Notice to a child under subsection (4) shall be given by leaving a copy with,

- (a) the Children's Lawyer;
- (b) the child's lawyer, if any; and
- (c) the child if they are 12 or older.

Order to vary openness order

(6) The court shall not make an order to vary an openness order under this section unless the court is satisfied that,

- (a) a material change in circumstances has occurred;
- (b) the proposed order is in the child's best interests; and
- (c) either,
 - (i) the proposed order would continue a relationship that is beneficial and meaningful to the child, or
 - (ii) in the case of an openness order made under section 197, the proposed order would help the child to develop or maintain a connection with the child's First Nations, Inuit or Métis cultures, heritages and traditions and to preserve the child's cultural identity and connection to community.

Order to terminate openness order

(7) The court shall not terminate an openness order under this section unless the court is satisfied that,

- (a) a material change in circumstances has occurred;
- (b) termination of the order is in the child's best interests; and
- (c) in the case of an openness order made under section 194 or 196, the relationship that is the subject of the order is no longer beneficial and meaningful to the child.

Consent of society required

(8) The court shall not, under this section, direct a society to supervise or participate in the arrangement under an openness order without the consent of the society.

Alternative dispute resolution

(9) At any time during a proceeding under this section, the court may, in the best interests of the child and with the consent of the parties, adjourn the proceedings to permit the parties to attempt through a prescribed method of alternative dispute resolution to resolve any dispute between them with respect to a matter relevant to the proceeding.

Appeal of order to vary or terminate openness order

208 (1) An appeal from a court's order under section 198 or 207 may be made to the Superior Court of Justice by,

- (a) any person who was entitled to apply for the order to vary or terminate the openness order; or
- (b) any person who was entitled to notice of the application to vary or terminate the openness order.

Temporary order

(2) Pending final disposition of the appeal, the Superior Court of Justice may on any party's motion make a temporary order in the child's best interests that varies or suspends an openness order.

No time extension

(3) No extension of the time for an appeal shall be granted.

Further evidence

(4) The court may receive further evidence relating to events after the appealed decision.

Place of hearing

(5) An appeal under this section shall be heard in the county or district in which the order appealed from was made.

Application of s. 204

209 Subsections 204 (1) and (2) apply with necessary modifications to proceedings under sections 194, 196, 197, 198, 207 and 208.

Child may participate

210 A child is entitled to participate in the proceeding under section 194, 196, 197, 198, 207 or 208 as if they were a party.

Legal representation of child

211 (1) A child may have legal representation at any stage in a proceeding under section 194, 196, 197, 198, 207 or 208 and subsection 78 (2) applies with necessary modifications to such a proceeding.

Children's Lawyer

(2) The Children's Lawyer may provide legal representation to a child under this Part if, in the opinion of the Children's Lawyer, such representation is appropriate.

Court may refer matter to Children's Lawyer

(3) Where the court determines that legal representation is desirable, the court may refer the matter to the Children's Lawyer.

OPENNESS AGREEMENTS**Who may enter into openness agreement**

212 (1) For the purposes of facilitating communication or maintaining relationships, an openness agreement may be made by an adoptive parent of a child or by a person with whom a society or licensee has placed or plans to place a child for adoption and any of the following persons:

1. A birth parent, birth relative or birth sibling of the child.
2. A foster parent of the child or another person who cared for the child or in whose custody the child was placed at any time.
3. A member of the child's extended family or community with whom the child has a significant relationship or emotional tie.
4. An adoptive parent of a birth sibling of the child or a person with whom a society or licensee has placed or plans to place a birth sibling of the child for adoption.
5. In the case of a First Nations, Inuk or Métis child,
 - i. a person described in paragraph 1, 2, 3 or 4, or
 - ii. a member of the child's bands and First Nations, Inuit or Métis communities who may not have had a significant relationship or emotional tie with the child in the past but will help the child to develop or maintain a connection with the child's First Nations, Inuit or Métis cultures, heritages and traditions and to preserve the child's cultural identity and connection to community.

When agreement may be made

(2) An openness agreement may be made at any time before or after an adoption order is made.

Agreement may include dispute resolution process

(3) An openness agreement may include a process to resolve disputes arising under the agreement or with respect to matters associated with it.

Child's views and wishes of child

(4) Before an openness agreement is made, the child's views and wishes shall be taken into account and given due weight in accordance with the child's age and maturity.

INTERIM ORDERS**Interim order**

213 (1) Where an application is made for an order for the adoption of a child under subsection 199 (1) or (2), the court, after considering the statement made under subsection 202 (1), may postpone the determination of the matter and make an interim order in the child's best interests placing the child in the applicant's care and custody for a specified period not exceeding one year.

Terms and conditions

(2) The court may make an order under subsection (1) subject to any terms and conditions that the court considers appropriate respecting,

- (a) the child's maintenance and education;
- (b) supervision of the child; and
- (c) any other matter the court considers advisable in the child's best interests.

Not an adoption order

(3) An order under subsection (1) is not an adoption order.

Consents required

(4) Sections 180 and 181 (consents to adoption) apply to an order under subsection (1) with necessary modifications.

Departure from Ontario

(5) Where an applicant takes up residence outside Ontario after obtaining an order under subsection (1), the court may nevertheless make an adoption order under subsection 199 (1) or (2) where the statement made under subsection 202 (1) indicates that, in the Director's or local director's opinion, it would be in the child's best interests to make the order.

Successive adoption orders

214 An adoption order under subsection 199 (1) or (2) or an interim custody order under subsection 213 (1) may be made in respect of a person who is the subject of an earlier adoption order.

APPEALS**Appeals****Appeal: adoption order**

215 (1) An appeal from a court's order under section 199 may be made to the Superior Court of Justice by,

- (a) the applicant for the adoption order; and
- (b) the Director or local director who made the statement under subsection 202 (1).

Same: dispensing with consent

(2) An appeal from a court's order under section 181 dispensing with a consent may be made to the Superior Court of Justice by,

- (a) the persons referred to in subsection (1) of this section; and
- (b) the person whose consent was dispensed with.

Same: late withdrawal of consent

(3) An appeal from a court's order under subsection 182 (1) permitting the late withdrawal of a consent may be made to the Superior Court of Justice by,

- (a) the persons referred to in subsection (1) of this section; and
- (b) the person who gave the consent.

No extension of time for appeal

(4) No extension of the time for an appeal shall be granted.

Place of hearing

(5) An appeal under this section shall be heard in the county or district in which the order appealed from was made.

Hearing in private

(6) An appeal under this section shall be heard in the absence of the public.

EFFECT OF ADOPTION ORDER**Order final**

216 (1) An adoption order under section 199 is final and irrevocable, subject only to section 215 (appeals), and shall not be questioned or reviewed in any court by way of injunction, declaratory judgment, *certiorari*, *mandamus*, prohibition, *habeas corpus* or application for judicial review.

Validity of adoption order not affected by openness order or agreement

(2) Compliance or non-compliance with the terms of an openness order or openness agreement relating to a child does not affect the validity of an order made under section 199 for the adoption of the child.

Status of adopted child

217 (1) In this section,

“adopted child” means a person who was adopted in Ontario.

Same

(2) For all purposes of law, as of the date of the making of an adoption order,

- (a) the adopted child becomes the child of the adoptive parent and the adoptive parent becomes the parent of the adopted child; and
- (b) the adopted child ceases to be the child of the person who was the adopted child’s parent before the adoption order was made and that person ceases to be the parent of the adopted child, except where the person is the spouse of the adoptive parent.

How relationships determined

(3) The relationship to one another of all persons, including the adopted child, the adoptive parent, the kindred of the adoptive parent, the parent before the adoption order was made and the kindred of that former parent shall for all purposes be determined in accordance with subsection (2).

Reference in will or other document

(4) In any will or other document made at any time before or after the day this subsection comes into force and whether the maker of the will or document is alive on that day or not, a reference to a person or group or class of persons described in terms of relationship by blood or marriage to another person is deemed to refer to or include, as the case may be, a person who comes within the description as a result of an adoption, unless the contrary is expressed.

Application of section

(5) This section applies and is deemed always to have applied with respect to any adoption made under any Act that is in force, but not so as to affect,

- (a) any interest in property or right of the adopted child that has indefeasibly vested before the date of the making of an adoption order; and
- (b) any interest in property or right that has indefeasibly vested before the day this subsection comes into force.

Exception

(6) Subsections (2) and (3) do not apply for the purposes of the laws relating to incest and the prohibited degrees of marriage to remove a person from a relationship that would have existed but for those subsections.

Effect of foreign adoption

218 An adoption effected according to the law of another jurisdiction, before or after the day this section comes into force, has the same effect in Ontario as an adoption under this Part.

No order for access by birth parent, etc.

219 Where an order for the adoption of a child has been made under this Part, no court shall make an order under this Part for access to the child by,

- (a) a birth parent; or
- (b) a member of a birth parent’s family.

MAINTENANCE OF RELATIONSHIPS**Maintenance of relationships**

220 (1) A society shall make all reasonable efforts to assist a child to maintain relationships with persons that are beneficial and meaningful to the child in the following circumstances:

1. The child was placed for adoption by the society and the society has decided not to finalize the adoption of the child by the person with whom the child was placed.
2. A child returns to the care of a society after an adoption order was made.

Openness order or agreement or access order

(2) For the purposes of subsection (1), in addition to what is permitted under subsection 105 (9), a society shall,

- (a) facilitate contact or communication provided for under an existing openness order or openness agreement in respect of the child and the persons who are subject to or parties to the openness order or openness agreement, as the case may be; and
- (b) consider whether to apply for an order for access under Part V (Child Protection) in respect of the child and the persons.

Existing openness order continues in force

(3) For greater certainty, in a circumstance described in paragraph 1 or 2 of subsection (1), an existing openness order continues to be in force until it is varied or terminated.

RECORDS, CONFIDENTIALITY AND DISCLOSURE

Parent to be informed on request

221 At the request of a person whose consent to an adoption was required under clause 180 (2) (a) or clause 137 (2) (a) of the old Act and was given or was dispensed with, any society or the licensee that placed the child for adoption shall inform the person whether an order has been made for the child's adoption.

Court papers

222 (1) In this section,

“court” includes the Superior Court of Justice.

Requirement to seal documents

(2) Subject to subsections (3) and 224 (2), the documents used on an application for an adoption order under this Part or Part VII (Adoption) of the old Act shall be sealed up together with a certified copy of the original order and filed in the court office by the appropriate court officer, and shall not be opened for inspection except by court order.

Transmission of order

(3) Within 30 days after an adoption order is made under this Part, the proper officer of the court shall cause a sufficient number of certified copies of it to be made, under the seal of the proper certifying authority, and shall provide,

- (a) the original order to the adoptive parent;
- (b) one certified copy to the Registrar General under the *Vital Statistics Act*, or, if the adopted child was born outside Ontario, two certified copies;
- (c) if the adopted child is registered or entitled to be registered under the *Indian Act* (Canada), one certified copy to the Registrar under that Act; and
- (d) one certified copy to such other persons as may be prescribed.

Other court files

(4) Unless the court orders otherwise, only the court may examine identifying information that comes from the records of any of the following persons that is contained in any court file respecting the judicial review of a decision made by any of them:

- 1. A designated custodian under section 223.
- 2. A person who, by virtue of a regulation made under paragraph 18 of subsection 346 (1), reviews or hears appeals of decisions concerning the disclosure of information under section 224 or 225.
- 3. A person referred to in subsection 224 (1) or 225 (1).

Same

(5) No person shall, without the court's permission, disclose identifying information described in subsection (4) that the person obtained from the court file.

Definition

(6) In subsections (4) and (5),

“identifying information” means information whose disclosure, alone or in combination with other information, will in the circumstances reveal the identity of the person to whom it relates.

Designation of custodians of information

223 (1) The Lieutenant Governor in Council may, by regulation, designate one or more persons to act as custodians of information that relates to adoptions and may impose such conditions and restrictions with respect to the designation as the Lieutenant Governor in Council considers appropriate.

Powers and duties

(2) A designated custodian may exercise such powers and shall perform such duties as may be prescribed with respect to the information provided to the custodian under this Act.

Same, disclosure of information

(3) A designated custodian may exercise such other powers and shall perform such other duties as may be prescribed for a purpose relating to the disclosure of information that relates to adoptions, including performing searches upon request for such persons, and in such circumstances, as may be prescribed.

Agreements

(4) The Minister may enter into agreements with designated custodians concerning their powers and duties under this section and the agreements may provide for payments to be made to the designated custodians.

Disclosure to designated custodian

224 (1) The Minister, the Registrar General under the *Vital Statistics Act*, a society, a licensee and such other persons as may be prescribed shall give a designated custodian under section 223 such information that relates to adoptions as may be prescribed in such circumstances as may be prescribed.

Same, adoption orders

(2) A court shall give a designated custodian a certified copy of an adoption order made under this Part together with such other documents as may be prescribed in such circumstances as may be prescribed.

Disclosure to others**By the Minister**

225 (1) The Minister shall give such information that relates to adoptions as may be prescribed to such persons as may be prescribed in such circumstances as may be prescribed.

By a society

(2) A society shall give such information that relates to adoptions as may be prescribed to such persons as may be prescribed in such circumstances as may be prescribed.

By a licensee

(3) A licensee shall give such information that relates to adoptions as may be prescribed to such persons as may be prescribed in such circumstances as may be prescribed.

By a custodian

(4) A designated custodian under section 223 shall give such information that relates to adoptions as may be prescribed to such persons as may be prescribed in such circumstances as may be prescribed.

Scope of application

226 Sections 224 and 225 apply with respect to information that relates to an adoption regardless of when the adoption order was made.

CONFIDENTIALITY OF ADOPTION RECORDS**Confidentiality of adoption information**

227 (1) Despite any other Act, after an adoption order is made, no person shall inspect, remove, alter or disclose information that relates to the adoption and is kept by the Ministry, a society, a licensee or a designated custodian under section 223 and no person shall permit it to be inspected, removed, altered or disclosed unless the inspection, removal, alteration or disclosure is,

- (a) necessary for the maintenance or updating of the information by the Ministry, society, licensee or designated custodian or their staff; or
- (b) authorized by this Act or the regulations.

Powers of courts and tribunals

(2) Subsection (1) does not affect the power of a court or tribunal to compel a witness to testify or to compel the production of a document.

Application

(3) This section applies regardless of when the adoption order was made.

Privacy

(4) The *Freedom of Information and Protection of Privacy Act* does not apply to information that relates to an adoption.

INJUNCTION

Injunction

228 (1) The Superior Court of Justice may grant an injunction to restrain a person from contravening subsection 191 (2), on the society's or licensee's application.

Variation, etc.

(2) The Court may vary or terminate an order made under subsection (1), on any person's application.

LICENSING — REQUIREMENT FOR LICENCE; ISSUANCE AND RENEWAL

Licences**Licence required**

229 (1) No person other than a society shall place a child for adoption, except under the authority of a licence issued by a Director.

Issuing licence

(2) Subject to section 231, a person who applies for a licence in accordance with this Part and the regulations and pays the prescribed fee is entitled to be issued a licence by a Director, subject to any conditions imposed by the Director.

To individual or non-profit agency only

(3) Despite subsection (2), a licence shall only be issued to an individual or a non-profit agency.

Renewal of licence

(4) Subject to section 232, a licensee who applies for renewal of the licence in accordance with this Part and the regulations and pays the prescribed fee is entitled to have the licence renewed by a Director, subject to any conditions imposed by the Director.

Provisional licence or renewal

(5) Where an applicant for a licence or renewal of a licence does not meet all the requirements for the issuing or renewal of the licence and requires time to meet them, a Director may, subject to such conditions as the Director may impose, issue a provisional licence for the period that the Director considers necessary to give the applicant time to meet the requirements.

Not transferable

(6) A licence is not transferable.

Definition

(7) In this section,

“non-profit agency” means a corporation without share capital that has objects of a charitable nature and,

(a) to which Part III of the *Corporations Act* applies, or

(b) that is incorporated by or under a general or special Act of the Parliament of Canada.

Conditions of licence

230 (1) On issuing or renewing a licence or at any other time, a Director may impose on the licence the conditions that the Director considers appropriate.

Amending conditions

(2) A Director may, at any time, amend the conditions imposed on the licence.

Notice

(3) The Director shall notify the licensee in writing of the imposition or amendment of the conditions.

Contents of notice

(4) The notice shall set out the reasons for imposing or amending the conditions and shall state that the licensee is entitled to a hearing by the Tribunal if they request one in accordance with subsection 234 (1).

Conditions take effect upon notice

(5) The imposition or amendment of conditions takes effect immediately upon the licensee's receipt of the notice and is not stayed by a request for a hearing by the Tribunal.

Licensee must comply

(6) Every licensee shall comply with the conditions to which the licence is subject.

LICENSING — REFUSAL AND REVOCATION

Grounds for refusal

231 A Director may propose to refuse to issue a licence where, in the Director's opinion,

- (a) the applicant or an employee of the applicant, or, where the applicant is a corporation, an officer or director of the corporation is not competent to place children for adoption in a responsible manner in accordance with this Act and the regulations;
- (b) the past conduct of any person mentioned in clause (a) affords reasonable grounds for belief that the placement of children for adoption will not be carried on in a responsible manner in accordance with this Act and the regulations; or
- (c) a ground exists that is prescribed as a ground for refusing to issue a licence.

Grounds for revocation, refusal to renew

232 A Director may propose to revoke or refuse to renew a licence where, in the Director's opinion,

- (a) the licensee or an employee of the licensee, or where the licensee is a corporation, an officer or director of the corporation has contravened or has knowingly permitted a person under their control or direction or associated with them to contravene,
 - (i) this Act or the regulations,
 - (ii) any other applicable law, or
 - (iii) a condition of the licence;
- (b) the placement of children for adoption is carried on in a manner that is prejudicial to the children's health, safety or welfare;
- (c) a person has made a false statement in the application for the licence or for its renewal, or in a report or document required to be furnished by this Act or the regulations or any other applicable law;
- (d) a change has occurred in the employees, officers or directors of the licensee that would, if the licensee were applying for the licence in the first instance, afford grounds under clause 231 (b) for refusing to issue the licence; or
- (e) a ground exists that is prescribed as a ground for revoking or refusing to renew a licence.

LICENSING — HEARING BY TRIBUNAL

Hearings arising out of s. 231 or 232**Notice of proposal**

233 (1) Where a Director proposes to refuse to issue a licence under section 231 or to revoke or refuse to renew a licence under section 232, the Director shall notify the applicant or licensee of the proposal in writing.

Request for hearing

(2) A notice under subsection (1) shall set out the reasons for the proposal and shall state that the applicant or licensee is entitled to a hearing by the Tribunal if they deliver a written request for a hearing to the Director and to the Tribunal within 10 days after the notice is given.

Powers of Director where no hearing requested

(3) Where an applicant or licensee does not request a hearing under subsection (2), the Director may carry out the proposal.

Powers of Tribunal where hearing requested

(4) Where an applicant or licensee requests a hearing under subsection (2), the Tribunal shall appoint a time for and hold a hearing and may, on hearing the matter,

- (a) order the Director to carry out the proposal; or
- (b) order the Director to take such other action as the Tribunal considers appropriate, in accordance with this Part and the regulations.

Discretion of Tribunal

(5) In making an order under subsection (4), the Tribunal may substitute its opinion for that of the Director.

Review of conditions by Tribunal

234 (1) A licensee who is dissatisfied with the conditions imposed by a Director under subsection 229 (2), (4) or (5) or section 230 is entitled to a hearing by the Tribunal if the licensee delivers a written request for a hearing to the Director and to the Tribunal within 15 days after receiving the licence.

Powers of Tribunal

(2) Where a licensee requests a hearing under subsection (1), the Tribunal shall appoint a time for and hold a hearing and may, on hearing the matter,

- (a) confirm any or all of the conditions;
- (b) strike out any or all of the conditions; or
- (c) impose such other conditions as the Tribunal considers appropriate.

Continuation of licence pending renewal

235 Subject to section 236, where a licensee has applied for renewal of a licence and paid the prescribed fee within the prescribed time or, if no time is prescribed, before the licence expires, the licence is deemed to continue,

- (a) until the renewal is granted; or
- (b) where the licensee is served with notice that the Director proposes to revoke the licence or to refuse to grant the renewal, until the time for requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its decision.

Suspension of licence

236 (1) A Director may, by giving written notice to a licensee, suspend the licence where, in the Director's opinion, the manner in which children are placed for adoption by the licensee is an immediate threat to the health, safety or welfare of the children.

Suspension takes effect upon notice

(2) A suspension takes effect immediately upon the licensee's receipt of the notice and is not stayed by a request for a hearing by the Tribunal.

s. 233 (2)-(4) apply

(3) Where a notice is given under subsection (1), subsections 233 (2), (3) and (4) apply with necessary modifications.

Application of other provisions

237 Sections 266 and 267 apply with necessary modifications to proceedings before the Tribunal under this Part and to appeals of its orders.

LICENSING — DELIVERY OF LICENCE AND RECORDS**Licence and record to be delivered**

238 If a licence is revoked or renewal of it refused, or if a licensee ceases to place children for adoption, the licensee shall,

- (a) promptly deliver the licence to the Minister; and
- (b) deliver all the records in the licensee's possession or control that relate to the children to whom services were being provided to a prescribed person or entity within the prescribed time.

LICENSING — INJUNCTIONS**Injunction**

239 (1) A Director may apply to the Superior Court of Justice for an order enjoining a licensee from placing children for adoption while the licence is suspended under section 236.

Variance or discharge

(2) A licensee may apply to the court for an order varying or discharging an order made under subsection (1).

OFFENCES**No payments for adoption**

240 No person, whether before or after a child's birth, shall give, receive or agree to give or receive a payment or reward of any kind in connection with,

- (a) the child's adoption or placement for adoption;
- (b) a consent under section 180 to the child's adoption; or
- (c) negotiations or arrangements with a view to the child's adoption,

except for,

- (d) the prescribed expenses of a licensee, or such greater expenses as are approved by a Director;
- (e) proper legal fees and disbursements; and

- (f) a subsidy paid by a society or by the Minister to an adoptive parent or to a person with whom a child is placed for adoption.

Offences

241 (1) A person who contravenes subsection 183 (1), (2), (3) or (4) (placement for adoption) and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence, whether an order is subsequently made for the child's adoption or not, and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both.

Same

(2) A person who contravenes subsection 183 (5) (receiving child) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both.

Same

(3) A person who contravenes subsection 191 (2) (interference with child) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

Same

(4) A person who contravenes section 240 and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than three years, or to both.

Limitation

(5) A proceeding under subsection (1), (2) or (4) shall not be commenced more than two years after the day on which the offence was, or is alleged to have been, committed.

Offences — licensing

242 (1) A person is guilty of an offence if the person,

- (a) knowingly provides false information in an application for a licence or renewal of a licence under this Part or in a statement, report or return required to be provided in respect of a licensing matter under this Part or the regulations; or
- (b) fails to comply with an order or direction made by a court in relation to a licensing matter under this Part.

Directors, officers and employees

(2) It is an offence for a director, officer or employee of a corporation to authorize, permit or concur in the commission by the corporation of an offence described in subsection (1).

Penalty

(3) Every person convicted of an offence under this section is liable to a fine of not more than \$5,000.

PART IX RESIDENTIAL LICENSING

Definitions

243 In this Part,

“children’s residence” means any of the following residences where children live and receive residential care:

1. A parent model residence having five or more children not of common parentage.
2. A staff model residence having three or more children not of common parentage, including an institution that is supervised or operated by a society or a place of temporary detention, of secure custody or of open custody.
3. Any other prescribed residence.

A children’s residence does not include the following:

4. A house licensed under the *Private Hospitals Act*.
5. A child care centre as defined in the *Child Care and Early Years Act, 2014*.
6. A recreational camp under the *Health Protection and Promotion Act*.
7. A home for special care under the *Homes for Special Care Act*.
8. A school or private school as defined in the *Education Act*.
9. A hostel intended for short term accommodation.
10. A hospital that receives financial aid from the Government of Ontario.

11. A group home or similar facility that receives financial assistance from the Minister of Community Safety and Correctional Services but receives no financial assistance from the Minister under this Act.

12. Any other prescribed place; (“foyer pour enfants”)

“directive” means a directive issued by the Minister under section 252; (“directive”)

“parent model residence” means a building, group of buildings or part of a building where not more than two adult persons live and provide care for children on a continuous basis; (“foyer de type familial”)

“placing agency” means a person or entity, including a society, that places a child in residential care or in foster care and includes a licensee; (“agence de placement”)

“staff model residence” means a building, group of buildings or part of a building where adult persons are employed to provide care for children on the basis of scheduled periods of duty. (“foyer avec rotation de personnel”)

PROTECTIVE MEASURES

Licence required

244 No person shall do any of the following except under the authority of a licence:

1. Operate a children’s residence.
2. Provide residential care, directly or indirectly, in places that are not children’s residences,
 - i. for three or more children not of common parentage, or
 - ii. in such circumstances as may be prescribed.

Prohibition — past offence

245 No person shall operate a children’s residence or provide residential care under the authority of a licence if they have been convicted of a prescribed offence.

Prohibition — holding out as licensed

246 No person shall represent or hold out expressly or by implication that they are licensed to operate a children’s residence or to provide residential care unless the person is licensed to do so.

Placements must comply with Act and regulations, etc.

247 No licensee shall place a child in a children’s residence or other place where residential care is provided except in accordance with this Act, the regulations and the directives.

Duty to keep licence

248 (1) A licensee shall keep a copy of the licence at the following premises and shall ensure that the licence is available for public inspection:

1. In the case of a children’s residence, at the residence.
2. In the case of any other place where residential care is provided under the authority of a licence, at the business premises of the licensee or other prescribed premises.

Duty to post information

(2) A licensee shall post any prescribed information in a conspicuous place at the children’s residence or other place where residential care is provided under the authority of a licence.

Duty to provide licence and other information

249 (1) Before a child is placed in a children’s residence or other place where residential care is provided under the authority of a licence, the licensee shall give the following to the placing agency, where the placing agency is not the licensee, or to the person placing the child:

1. A copy of the licence to operate the children’s residence or to provide residential care, as the case may be.

2. Any other prescribed information.

Record of compliance

(2) The licensee shall make and keep a record of its compliance with subsection (1),

(a) in the case of a children’s residence, at the residence; or

(b) in the case of any other place where residential care is provided under the authority of a licence, at the business premises of the licensee or other prescribed premises.

Report certain matters to a Director

250 (1) If, in the course of employment, it comes to the attention of a prescribed person that there are reasonable grounds to suspect that there is an immediate threat to the health, safety or welfare of any child placed in a children's residence or other place where residential care is provided under the authority of a licence, the person shall immediately report the suspicion and the information on which it is based to a Director.

Inspection

(2) If a suspicion is reported to a Director under subsection (1), the Director shall have an inspector conduct an inspection or make inquiries for the purpose of determining compliance with this Act, the regulations and the directives.

Solicitor-client privilege

(3) Nothing in this section abrogates any privilege that may exist between a lawyer and the lawyer's client.

Duty to report

(4) Nothing in this section affects the duty to report a suspicion under section 125.

Director may exempt

251 A Director may, in the prescribed circumstances, exempt the following from any provision of this Part, the regulations under this Part or a directive for the time period and on the conditions specified by the Director:

1. A place or class of places where residential care is provided under the authority of a licence.
2. A person or class of persons who provide, or are applying to provide, residential care under the authority of a licence.

Directives by Minister

252 (1) The Minister may issue directives to licensees with respect to any prescribed matter.

Binding

(2) A licensee shall comply with every directive issued to it under this section.

General or particular

(3) A directive may be general or particular in its application.

Law prevails

(4) For greater certainty, in the event of a conflict between a directive issued under this section and a provision of any applicable Act or rule of any applicable law, the provision or rule prevails.

Public availability

(5) The Minister shall make every directive under this section available to the public.

Non-application of *Legislation Act, 2006*

(6) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a directive issued under this section.

Publication of information by Minister

253 (1) The Minister may publish the following information with respect to licences and applications for licences:

1. The name of the licensee and prescribed contact information.
2. The name of the children's residence or other place where residential care is provided.
3. The conditions, if any, imposed on the licence under section 255.
4. The term of the licence specified under section 256.
5. The class, if any, assigned to the licence under section 258.
6. The maximum number of children for whom residential care may be provided by the licensee, set out in the licence under section 259.
7. Information about the programs and services to be provided under the authority of the licence.
8. A summary of each proposal to refuse to issue a licence under section 261, or under section 195 of the old Act, or to revoke or refuse to renew a licence under section 262, or under section 196 of the old Act, unless the refusal or revocation was not carried out.
9. A summary of each notice of a suspension under section 264, or under section 200 of the old Act.
10. The amount that the licensee shall charge for the provision of residential care under section 268.
11. A summary of each inspection report prepared under section 278.

12. Any other prescribed licensing information.

Not in force

(2) The authority under subsection (1) includes the authority to publish information with respect to licences that are no longer in force.

Manner

(3) The Minister may publish the information in any manner or format the Minister considers appropriate.

LICENCES

Issuance and renewal of licence

Application

254 (1) An application for a licence or the renewal of a licence to operate a children's residence or to provide residential care shall be made by submitting to a Director,

- (a) an application in a form approved by the Minister;
- (b) an attestation, to be completed by the applicant in a form approved by the Minister, confirming that the applicant is not prohibited from operating a children's residence or from providing residential care under the authority of a licence under section 245;
- (c) any other information or documentation that may be specified by the Minister; and
- (d) payment of the prescribed fee.

Additional requirements

(2) An applicant for a licence or the renewal of a licence shall comply with any other prescribed requirements and the directives that relate to the application process, unless the applicant withdraws the application.

Director's duty to issue or renew

- (3) A Director shall issue or renew a licence if the applicant applied in accordance with subsections (1) and (2) unless,
- (a) the Director proposes to refuse to do so in accordance with section 261 or 262; or
 - (b) the applicant is under 18 years old, is a partnership or is an association of persons.

Not transferable

(4) A licence is not transferable.

Conditions of licence

255 (1) On issuing or renewing a licence or at any other time, a Director may impose on the licence the conditions that the Director considers appropriate.

Amending conditions

(2) A Director may, at any time, amend the conditions imposed on the licence.

Notice

(3) The Director shall notify the licensee in writing of the imposition or amendment of the conditions.

Contents of notice

(4) The notice shall set out the reasons for imposing or amending the conditions and shall state that the licensee is entitled to a hearing by the Tribunal if they request one in accordance with subsection 265 (2).

Conditions take effect upon notice

(5) The imposition or amendment of conditions takes effect immediately upon the licensee's receipt of the notice and is not stayed by a request for a hearing by the Tribunal.

Licensee must comply

(6) Every licensee shall comply with the conditions to which the licence is subject.

Term of licence

256 (1) A licence shall be issued or renewed,

- (a) for a term specified by the Director in accordance with the regulations; or
- (b) if there are no regulations governing the term, for a term specified by the Director that does not exceed one year.

Expiry at end of term

(2) A licence expires at the end of its term, unless it is deemed to continue under section 257.

Revocation for cause

(3) Nothing in this section prevents a licence from being revoked or suspended.

Continuation of licence pending renewal

257 Subject to a suspension under section 264, if a licensee has applied for renewal of a licence and paid the prescribed fee before the licence expires, the licence is deemed to continue,

- (a) until the renewal is granted; or
- (b) if the licensee is given notice that the Director proposes to revoke or refuse to renew the licence under section 262, until the time for requiring a hearing by the Tribunal has expired and, if a hearing is required, until the Tribunal has made its decision.

Class of licence

258 A Director may assign a class to a licence in accordance with the regulations,

- (a) when issuing or renewing a licence; or
- (b) at any other time, if authorized by the regulations.

Maximum number of children

259 (1) On issuing or renewing a licence, a Director may set out in the licence the maximum number of children for whom residential care may be provided by the licensee in the children's residence or other place where residential care is provided.

Changing maximum number

(2) A Director may at any time, but with notice to the licensee that is reasonable in the circumstances, change the maximum number of children set out in the licence.

Licensee must comply

(3) A licensee shall not admit to the children's residence or other place where residential care is provided more children than the maximum number set out in the licence, unless the admission is approved by a Director for a specified period of time.

Appeals of class or maximum number

260 If authorized by the regulations, a licensee may, in accordance with the regulations,

- (a) require a review by the Tribunal of,
 - (i) the class assigned to a licence under section 258, or
 - (ii) the maximum number of children set out in a licence under section 259; and
- (b) appeal the Tribunal's decision to the Divisional Court.

Refusals and revocations**Proposal to refuse to issue**

261 A Director may propose to refuse to issue a licence if, in the Director's opinion,

- (a) the applicant or an employee of the applicant, or where the applicant is a corporation, an officer or director of the corporation is not competent to operate a children's residence or to provide residential care, as the case may be, in a responsible manner in accordance with this Act, the regulations or any other applicable law;
- (b) the past conduct of any person mentioned in clause (a) affords reasonable grounds to believe that the operation of the children's residence or the provision of residential care will not be carried on in a responsible manner in accordance with this Act, the regulations or any other applicable law;
- (c) the premises in which the applicant proposes to operate the children's residence or to provide residential care do not comply with the requirements of this Part, the regulations or any other applicable law;
- (d) any person has made a false statement in the application for the licence, or in any report, document or other information required to be furnished by this Act or the regulations or any other applicable law;
- (e) a licence held by the applicant has been revoked or the renewal of such a licence has been refused and there has been no material change in the applicant's circumstances; or
- (f) a ground exists that is prescribed as a ground for refusing to issue a licence.

Proposal to revoke or refuse to renew

262 A Director may propose to revoke or refuse to renew a licence if, in the Director's opinion,

- (a) the licensee or an employee of the licensee, or where the licensee is a corporation, an officer or director of the corporation has contravened or has knowingly permitted a person under their control or direction or associated with them to contravene,
 - (i) this Act or the regulations,
 - (ii) any other applicable law, or
 - (iii) a condition of the licence;
- (b) the conduct of any person mentioned in clause (a) affords reasonable grounds to believe,
 - (i) that the person is not competent to operate a children's residence or to provide residential care in a responsible manner in accordance with this Act, the regulations or any other applicable law, or
 - (ii) that the children's residence or other place where residential care is provided is not being or will not be operated in accordance with this Act, the regulations or any other applicable law;
- (c) the premises where the children's residence is located or the residential care is provided do not comply with the requirements of this Part, the regulations or any other applicable law;
- (d) the operation of the children's residence or the provision of residential care is carried on in a manner that is prejudicial to the children's health, safety or welfare;
- (e) any person has made a false statement in the application for the licence or for its renewal, or in a report or document required to be furnished by this Act or the regulations or any other applicable law;
- (f) a change has occurred in the employees, officers or directors of the licensee that would, if the licensee were applying for the licence in the first instance, afford grounds under clause 261 (b) for refusing to issue the licence; or
- (g) a ground exists that is prescribed as a ground for refusing to renew or for revoking a licence.

Notice of proposal

263 (1) The Director shall notify the applicant or licensee, as the case may be, in writing if the Director proposes to,

- (a) refuse to issue a licence under section 261; or
- (b) revoke or refuse to renew a licence under section 262.

Contents of notice

(2) The notice of proposal shall set out the reasons for the proposed action and shall state that the applicant or licensee is entitled to a hearing by the Tribunal if they request one in accordance with subsection 265 (2).

Suspension

264 (1) A Director may suspend a licence if, in the Director's opinion, the manner in which the children's residence is operated or residential care is provided is an immediate threat to the health, safety or welfare of the children.

Notice

(2) The Director shall notify the licensee in writing of the suspension.

Contents of notice

(3) The notice shall set out the reasons for the suspension and shall state that the licensee is entitled to a hearing by the Tribunal if they request one in accordance with subsection 265 (2).

Suspension takes effect upon notice

(4) A suspension takes effect immediately upon the licensee's receipt of the notice and is not stayed by a request for a hearing by the Tribunal.

No application

(5) No person whose licence is suspended may apply to a Director for a licence during the suspension.

HEARINGS BY TRIBUNAL**Hearings by Tribunal**

265 (1) An applicant or licensee to whom any of the following notices is given by a Director may request a hearing by the Tribunal in accordance with subsection (2):

1. A notice of proposal to refuse to issue a licence under section 261.

2. A notice of proposal to revoke or refuse to renew a licence under section 262.
3. A notice to impose or amend conditions on a licence under section 255.
4. A notice to suspend a licence under section 264.

Request for hearing

(2) The applicant or licensee may request a hearing by giving a written request to the Director who gave the notice referred to in subsection (1), and to the Tribunal,

- (a) in the case of a notice to impose or amend conditions on a licence, within 15 days after the person is given the notice; or
- (b) in the case of all other notices, within 10 days after the person is given the notice.

If hearing regarding proposal is not requested

(3) If an applicant or licensee to whom a notice of proposal to refuse to issue a licence or to revoke or refuse to renew a licence is given does not request a hearing in accordance with subsection (2), the Director may carry out the proposal.

Hearing

(4) If an applicant or licensee requests a hearing in accordance with subsection (2), the Tribunal shall appoint a time for and hold a hearing.

Powers of tribunal

(5) After holding the hearing, the Tribunal may by order,

- (a) in the case of a proposal to refuse to issue a licence or to revoke or refuse to renew a licence,
 - (i) direct the Director to carry out the proposal, or
 - (ii) direct the Director to take such other action as the Tribunal considers appropriate, in accordance with this Part and the regulations;
- (b) in the case of the imposition or amendment of conditions on a licence,
 - (i) confirm any or all of the conditions,
 - (ii) strike out any or all of the conditions, or
 - (iii) impose such other conditions as the Tribunal considers appropriate; or
- (c) in the case of the suspension of a licence,
 - (i) confirm the suspension, or
 - (ii) direct the Director to take such other action as the Tribunal considers appropriate, in accordance with this Part and the regulations.

Discretion of tribunal

(6) In making an order under clause (5) (a) or (c), the Tribunal may substitute its opinion for that of the Director.

Rules for proceedings**Parties**

266 (1) The following persons are parties to a proceeding under this Part:

1. The applicant or licensee requiring the hearing.
2. The Director.
3. Any other person specified by the Tribunal.

Members with prior involvement

(2) A member of the Tribunal who has taken part, before a hearing, in any investigation or consideration of its subject matter that relates to the applicant or licensee shall not take part in the hearing.

Discussion of subject matter of hearing

(3) A member of the Tribunal who takes part in a hearing shall not communicate with any person, except another member, a lawyer who is not the lawyer of any party, or an employee of the Tribunal, about the subject matter of the hearing, unless all parties are notified and given an opportunity to participate.

When Tribunal seeks independent legal advice

(4) The Tribunal may seek independent legal advice about the subject matter of a hearing and, if it does so, shall disclose the nature of the advice to the parties to enable them to respond.

Examination of documentary evidence

(5) A party to a proceeding under this Part shall be given an opportunity, before the hearing, to examine any written or documentary evidence that will be produced and any report whose contents will be given in evidence at the hearing.

Only members at entire hearing to participate in decision

(6) No member of the Tribunal shall participate in a decision of the Tribunal under this Part unless the member was present throughout the hearing and heard the evidence and arguments of the parties.

All members at hearing to participate in decision

(7) Unless the parties consent, the Tribunal shall not make a decision under this Part unless all the members who were present at the hearing participate in the decision.

Final decision of Tribunal within 90 days

(8) Despite section 21 of the *Statutory Powers Procedure Act*, the Tribunal shall make a final decision and notify the parties of it within 90 days after the day the Tribunal receives the applicant's or licensee's request for a hearing under subsection 265 (2) of this Act.

APPEALS**Appeal from Tribunal**

267 (1) Any party to a hearing before the Tribunal under this Part may appeal from the Tribunal's decision to the Divisional Court.

Record to be filed in the court

(2) If notice of an appeal is served under this section, the Tribunal shall promptly file with the court the record of the proceeding in which the decision appealed from was made.

Minister entitled to be heard

(3) The Minister, represented by a lawyer or otherwise, is entitled to be heard on the argument of an appeal under this section.

AMOUNT CHARGED BY LICENSEE**Amount**

268 (1) A licensee shall charge the amount set out in or determined in accordance with the regulations for the provision of residential care under the authority of a licence.

Exemption

(2) A regulation may exempt a licensee or class of licensees from subsection (1) and may prescribe conditions and circumstances for any such exemption.

LICENSEE CEASING TO OPERATE, ETC.**Licence and records to be delivered**

269 If a licence is revoked or renewal of it refused, or if a licensee ceases to operate a children's residence or to provide residential care, the licensee shall,

- (a) promptly deliver the licence to the Minister; and
- (b) deliver all the records in the licensee's possession or control that relate to the children to whom services were being provided to a prescribed person or entity within the prescribed time.

Notice to placing agency or other person; removal of children

270 If a licence is revoked or suspended or renewal of it refused, or if a licensee ceases to operate a children's residence or to provide residential care,

- (a) the licensee shall promptly notify, in writing, every placing agency or person who has a child placed in the children's residence or other place where residential care is provided of the revocation, suspension, refusal or cessation; and
- (b) the placing agency or person who placed a child shall arrange for the child's removal from the residence or other place as soon as is practicable, having regard to the child's best interests, and the Minister may assist in finding an alternative placement for the child.

OCCUPATION BY MINISTER AND INJUNCTIONS

Order for Minister's occupation

271 (1) If a Director's notice of proposal to revoke or refuse to renew a licence under clause 263 (1) (b) or notice of suspension under subsection 264 (2) has been given to a licensee and the matter has not yet been finally disposed of, the Minister may apply without notice to the Superior Court of Justice for an order,

- (a) authorizing the Minister or a person appointed by the Minister, pending the outcome of the proceeding and until alternative accommodation may be found for the children who are being cared for, to,
 - (i) occupy and operate the children's residence or the other premises where residential care is provided, or
 - (ii) provide the residential care, directly or indirectly; and
- (b) directing a peace officer to assist the Minister or a person appointed by the Minister as may be necessary in occupying the premises under subclause (a) (i).

Where court may make order

(2) The court may make an order referred to in subsection (1) where it is satisfied that the health, safety or welfare of the children being cared for require it.

Interim management

(3) If an order described in subclause (1) (a) (i) has been made, the Minister or the person appointed by the Minister may, despite sections 25 and 39 of the *Expropriations Act*, immediately occupy and operate or arrange for the occupation and operation of the premises for a period not exceeding six months.

Injunction

272 (1) A Director may apply to the Superior Court of Justice for an order enjoining any person from,

- (a) contravening section 244 (licence required); or
- (b) operating a children's residence or providing residential care while the licence is suspended under section 264.

Variance or discharge

(2) Any person may apply to the court for an order varying or discharging an order made under subsection (1).

RESIDENTIAL LICENSING INSPECTIONS

Appointment of inspectors

273 (1) The Minister may appoint inspectors for the purposes of this Part.

Director is an inspector

(2) A Director is, by virtue of their office, an inspector.

Powers and duties

(3) An inspector shall have the powers and duties set out in this Part and such other powers and duties as may be prescribed.

Restrictions

(4) The Minister may restrict an inspector's powers of entry and inspection to specified premises.

Certificate of appointment

(5) The Minister shall issue to every inspector a certificate of appointment which the inspector shall produce, on request, when exercising the powers or performing the duties of an inspector.

Purpose of inspection

274 An inspector shall conduct inspections for the purpose of determining compliance with this Act, the regulations and the directives.

Inspections without warrant

275 An inspector may, at any reasonable time and without a warrant or notice, enter and inspect,

- (a) the business premises of a licensee;
- (b) the premises of a children's residence;
- (c) a premises, other than a children's residence, where residential care is provided under the authority of a licence, or
- (d) a premises where the inspector suspects on reasonable grounds that residential care is provided without the authority of a licence, where a licence is required under this Part.

Powers on inspection

276 (1) An inspector conducting an inspection may,

- (a) examine the services provided;
- (b) examine a record or other thing that is relevant to the inspection;
- (c) demand the production for inspection of a record or other thing that is relevant to the inspection, including a record or other thing that is not kept on the premises;
- (d) on issuing a written receipt, remove for review or copying a record or other thing that is relevant to the inspection;
- (e) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems that are normally used in carrying on business at the premises;
- (f) photograph, film or make any other kind of recording that is relevant to the inspection, including of a child or other person at the premises, but only in a manner that does not intercept any private communications and that is in keeping with reasonable expectations of privacy;
- (g) question a person, including a child, on matters relevant to the inspection;
- (h) call upon experts for assistance in carrying out the inspection; and
- (i) exercise any other prescribed power.

Demand

- (2) A demand that a record or other thing be produced for inspection may be made orally or in writing and must indicate,
- (a) the nature of the record or thing required; and
 - (b) when the record or thing is to be produced.

Obligation to produce and assist

- (3) If an inspector demands that a record or other thing be produced for inspection, the person having custody of the record or other thing shall produce it for the inspector within the time provided for in the demand, and shall, on the inspector's demand,
- (a) provide whatever assistance is reasonably necessary to produce the record or thing in readable form, including using a data storage, processing or retrieval device or system; and
 - (b) provide whatever assistance is reasonably necessary to interpret the record or thing for the inspector.

Child's right to refuse

- (4) Despite clause (1) (g), a child may refuse to be questioned by an inspector.

Child's right to meet with inspector

- (5) An inspector shall meet privately with a child who is receiving residential care in the place being inspected, if the child requests such a meeting.

Power to exclude persons

- (6) An inspector who questions a person under clause (1) (g) may exclude from questioning any person except a lawyer for the person being questioned.

Return of things

- (7) A record or other thing that has been removed for review or copying,
- (a) shall be made available to the person from whom it was removed on request and at a time and place that are convenient for the person and the inspector; and
 - (b) shall be returned to the person within a reasonable time.

Warrant

- 277** (1) An inspector may, without notice, apply to a justice for a warrant under this section.

Issuance of warrant

- (2) A justice may issue a warrant authorizing an inspector named in the warrant to enter the premises specified in the warrant, and to exercise any of the powers mentioned in subsection 276 (1), if the justice is satisfied on information under oath or affirmation,
- (a) that the premises,
 - (i) is the business premises of a licensee,

- (ii) is a children's residence,
 - (iii) is a place, other than a children's residence, where residential care is provided under the authority of a licence, or
 - (iv) is a place where the inspector suspects on reasonable grounds that residential care is provided without the authority of a licence, where a licence is required under this Part; and
- (b) that,
- (i) the inspector has been prevented from exercising a right of entry to the premises under section 275 or a power under subsection 276 (1), or
 - (ii) there are reasonable grounds to believe that the inspector will be prevented from exercising a right of entry to the premises under section 275 or a power under subsection 276 (1).

Dwellings

(3) The power to enter a premises described in clause (2) (a) with a warrant shall not be exercised to enter a premises that is used as a dwelling, except if,

- (a) the justice is informed that the warrant is being sought to authorize entry into a dwelling; and
- (b) the justice authorizes the entry into the dwelling.

Expert help

(4) The warrant may authorize persons who have special, expert or professional knowledge to accompany and assist the inspector in the execution of the warrant.

Expiry of warrant

(5) A warrant issued under this section shall name a date on which it expires, which shall be no later than 30 days after the warrant is issued.

Extension of time

(6) A justice may extend the date on which a warrant issued under this section expires for an additional period of no more than 30 days, upon application without notice by the inspector named in the warrant.

Use of force

(7) An inspector named in a warrant issued under this section may use whatever force is necessary to execute the warrant and may call upon a peace officer for assistance in executing the warrant.

Time of execution

(8) A warrant issued under this section may be executed between 8 a.m. and 8 p.m. only, unless the warrant specifies otherwise.

Other matters

(9) Subsections 276 (2) to (7) apply, with necessary modifications, with respect to the exercise of powers referred to in subsection (2) under a warrant issued under this section.

Definition

(10) In this section,

"justice" means a provincial judge or a justice of the peace.

Inspection report

278 (1) After completing an inspection, an inspector shall prepare an inspection report and give a copy of the report to,

- (a) a Director;
- (b) the licensee; and
- (c) any other prescribed person.

All non-compliance to be documented

(2) If an inspector finds that a licensee has not complied with a requirement of this Act, the regulations or a directive, the inspector shall document the non-compliance in the inspection report.

Admissibility of certain documents

279 A copy made under subsection 276 (1) that purports to be certified by the inspector as being a true copy of the original is admissible in evidence in any proceeding to the same extent as, and has the same evidentiary value as, the original.

OFFENCES

Offences

280 (1) A person is guilty of an offence if the person,

- (a) contravenes subsection 244 (1) (licence required);
- (b) contravenes section 245 (prohibition — past offence);
- (c) contravenes section 246 (prohibition — holding out as licensed);
- (d) contravenes subsection 259 (3) (licensee must comply with maximum number of children);
- (e) contravenes clause 269 (b) (records to be delivered);
- (f) causes a child to be cared for in a children's residence operated by a person who is not licensed, or in another place where residential care is provided by a person who is required to be but is not licensed to provide residential care;
- (g) is a child's parent or a person under a legal duty to provide for the child and permits the child to be cared for in a children's residence or other place referred to in clause (f);
- (h) fails to comply with an order or direction made by a court under this Part;
- (i) contravenes any other provision of this Act or the regulations prescribed for the purposes of this subsection.

Penalty

(2) A person convicted of an offence under subsection (1) is liable to,

- (a) a fine of not more than \$1,000 for each day on which the offence continues or imprisonment for a term of not more than one year or both, in the case of an individual; or
- (b) a fine of not more than \$1,000 for each day on which the offence continues, if the person is not an individual.

Offence — obstruction of inspector, false information, etc.

(3) A person is guilty of an offence if the person,

- (a) hinders, obstructs, or interferes with an inspector conducting an inspection under this Part, or otherwise impedes an inspector in exercising the powers or performing the duties of an inspector under this Part;
- (b) knowingly provides false information in an application under this Part or in a statement, report or return required to be provided under this Part or the regulations; or
- (c) contravenes any other provision of this Act or the regulations prescribed for the purposes of this subsection.

Penalty

(4) A person convicted of an offence under subsection (3) is liable to a fine of not more than \$5,000.

Limitation

(5) A proceeding in respect of an offence under subsection (1) or (3) shall not be commenced more than two years after the day on which evidence of the offence first came to the knowledge of the Director or inspector.

Directors, officers and employees

(6) If a corporation commits an offence under this section, a director, officer or employee of the corporation who authorized, permitted or concurred in the commission of the offence is also guilty of the offence.

**PART X
PERSONAL INFORMATION**

DEFINITIONS

Definitions

281 In this Part,

“Assistant Commissioner” means an Assistant Commissioner appointed under the *Freedom of Information and Protection of Privacy Act*; (“commissaire adjoint”)

“capable” means able to understand the information that is relevant to deciding whether to consent to the collection, use or disclosure of personal information and able to appreciate the reasonably foreseeable consequences of giving, withholding or withdrawing the consent and “capacity” has a corresponding meaning; (“capable”)

“Commissioner” means the Information and Privacy Commissioner appointed under the *Freedom of Information and Protection of Privacy Act*; (“commissaire”)

“incapable” means not capable, and “incapacity” has a corresponding meaning; (“incapable”)

“information practices” means the policy or policies respecting the collection, use, modification, disclosure, retention or disposal of personal information and the administrative, technical and physical safeguards and practices that the service provider maintains with respect to the information; (“pratiques relatives aux renseignements”)

“proceeding” includes a proceeding held in, before or under the rules of a court, a tribunal, a commission, a justice of the peace, a coroner, a committee of a College within the meaning of the *Regulated Health Professions Act, 1991*, a committee of the Ontario College of Social Workers and Social Service Workers under the *Social Work and Social Service Work Act, 1998*, an arbitrator or a mediator; (“instance”)

“service” means a service or program that is provided or funded under this Act or provided under the authority of a licence; (“service”)

“service provider” includes a lead agency designated under section 30; (“fournisseur de services”)

“substitute decision-maker” means a person who is authorized under this Part to consent, withhold or withdraw consent on behalf of an individual to the collection, use or disclosure of personal information about the individual. (“mandataire spécial”)

Confidentiality provisions prevail

282 Subsections 87 (8), (9) and (10) and 134 (11) prevail over this Part.

MINISTER’S POWERS TO COLLECT, USE AND DISCLOSE PERSONAL INFORMATION

Collection, use and disclosure of personal information by the Minister

Collection of personal information

283 (1) The Minister may collect personal information, directly or indirectly, for purposes related to the following matters, and may use it for those purposes:

1. Administering this Act and the regulations.
2. Determining compliance with this Act and the regulations.
3. Planning, managing or delivering services that the Ministry provides or funds, in whole or in part, allocating resources to any of them, evaluating or monitoring any of them or detecting, monitoring and preventing fraud or any unauthorized receipt of services or benefits related to any of them.
4. Conducting risk management and error management activities in respect of the services that the Ministry provides or funds, in whole or in part.
5. Conducting activities to improve or maintain the quality of the services that the Ministry provides or funds, in whole or in part.
6. Conducting research and analysis that relate to children and their families, including longitudinal studies, by or on behalf of the Ministry that relate to,
 - i. a service,
 - ii. the transition of children and their families between and out of services, including the resulting outcomes, or
 - iii. programs that support the learning, development, health and well-being of children and their families, including programs provided or funded in whole or in part by the Ministry or any other ministry of the Government of Ontario.

Personal information required by Minister

(2) The Minister may require any of the following persons to disclose to the Minister such personal information as is reasonably necessary for the purposes described in subsection (1):

1. A service provider.
2. Any other prescribed person who has information that is relevant to any of the purposes described in subsection (1).

Information other than personal information

(3) The Minister shall not collect, use or disclose personal information if other information will serve the purpose of the collection, use or disclosure.

Personal information limited to what is reasonably necessary

(4) The Minister shall not collect, use or disclose more personal information than is reasonably necessary to meet the purpose of the collection, use or disclosure.

Sharing with other ministers

(5) The Minister and other ministers of the Crown in right of Ontario who may be prescribed may disclose personal information to and indirectly collect personal information from each other for the purposes set out in paragraphs 3 and 6 of subsection (1).

Deemed compliance

(6) For the purpose of clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act*, clause 32 (e) of the *Municipal Freedom of Information and Protection of Privacy Act* or clause 43 (1) (h) of the *Personal Health Information Protection Act, 2004*, a disclosure of personal information by an institution or a health information custodian, within the meaning of those Acts, under subsection (2) or (5) is deemed to be for the purposes of complying with this Act.

Personal information for research

(7) The collection, use or disclosure of personal information to conduct research and analysis described in paragraph 6 of subsection (1) is subject to any requirements and restrictions that may be prescribed.

Notice required by s. 39 (2) of FIPPA

(8) If the Minister collects personal information indirectly under subsection (1), the notice required by subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* may be given by,

- (a) a public notice posted on a government of Ontario website; or
- (b) any other method that may be prescribed.

Information requested by Minister**Collection of information by service providers**

284 (1) The Minister may request that a service provider collect information, including personal information, directly from the individuals to whom it provides a service as is reasonably necessary for a prescribed purpose that is consistent with a purpose described in subsection 283 (1) and, upon being so requested, a service provider shall collect the information directly from the individuals.

Disclosure to Minister

(2) A service provider shall disclose the information collected under subsection (1) to the Minister within the time period and in the form and manner specified by the Minister.

Notice required by s. 39 (2) of FIPPA

(3) If the Minister collects personal information indirectly under subsection (1), the notice required by subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* may be given by,

- (a) a public notice posted on a government of Ontario website; or
- (b) any other method that may be prescribed.

Notice to and by service providers

(4) The Minister shall advise a service provider that collected personal information under subsection (1) of the notice referred to in subsection (3) and the service provider shall advise the individual to whom it provides a service of the information set out in the notice in the form and manner specified by the Minister.

COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION BY SERVICE PROVIDERS**Application of Part**

285 (1) Subject to subsections (2), (3), (4), (5) and (7), sections 286 to 332 apply to the collection, use and disclosure of personal information by a service provider.

Exceptions — where other Acts apply to an institution

(2) Sections 286 to 292 and 306 to 332 do not apply to an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*.

Exceptions — where other Acts apply to a health information custodian

(3) Sections 286 to 292 and 295 to 332 do not apply to a health information custodian within the meaning of the *Personal Health Information Protection Act, 2004* in respect of the collection, use or disclosure of personal health information.

Exceptions — adoption matters

(4) Sections 286 to 332 do not apply to,

- (a) the use or disclosure under section 227 by a licensee or a society of information that relates to an adoption; or

- (b) the collection, use or disclosure of information given to a designated custodian under section 224 or to another person under section 225.

Exceptions — other matters

(5) Sections 286 to 332 do not apply to,

- (a) records in the register maintained under subsection 133 (5);
- (b) records to which subsection 130 (6) or (8) apply;
- (c) reports for which an order was made under subsection 163 (6).

Service provider's records

(6) Except if this Act or its regulations provide otherwise, this Part applies to any record in the custody or under the control of a service provider regardless of whether it was recorded before or after this Part comes into force.

Where disclosure is prohibited under federal law

(7) For greater certainty, nothing in this Part permits or requires the disclosure of information whose disclosure is prohibited under the *Criminal Code* (Canada), the *Youth Criminal Justice Act* (Canada) or any other law of Canada.

Collection, use and disclosure of personal information — requirement for consent

286 A service provider shall not collect personal information about an individual for the purpose of providing a service or use or disclose that information unless,

- (a) the service provider has the individual's consent under this Act and the collection, use or disclosure, to the best of the service provider's knowledge, is necessary for a lawful purpose; or
- (b) the collection, use or disclosure without the individual's consent is permitted or required by this Act.

Collection, use and disclosure of information other than personal information

287 (1) A service provider shall not collect personal information for the purposes of providing a service or use or disclose that personal information if other information will serve the purpose of the collection, use or disclosure.

Collection, use and disclosure of personal information limited to what is reasonably necessary

(2) For the purposes of providing a service, a service provider shall not collect, use or disclose more personal information than is reasonably necessary to provide the service.

Exception

(3) This section does not apply to personal information that a service provider is required by law to collect, use or disclose.

Indirect collection of personal information**With consent**

288 (1) A service provider may collect personal information indirectly for the purpose of providing a service if the individual to whom the information relates consents to the collection being made indirectly.

Without consent

(2) A service provider may collect personal information indirectly for the purpose of providing a service and without the consent of the individual to whom the information relates if,

- (a) the information to be collected is reasonably necessary to provide a service or to assess, reduce or eliminate a risk of serious harm to a person or group of persons and it is not reasonably possible to collect personal information directly from the individual,
 - (i) that can reasonably be relied on as accurate and complete, or
 - (ii) in a timely manner;
- (b) the information is to be collected by a society from another society or from a child welfare authority outside of Ontario and the information is reasonably necessary to assess, reduce or eliminate a risk of harm to a child;
- (c) the information is to be collected by a society and the information is reasonably necessary for a prescribed purpose related to a society's functions under subsection 35 (1);
- (d) the indirect collection of information is authorized by the Commissioner; or
- (e) subject to the requirements and restrictions, if any, that are prescribed, the indirect collection of information is permitted or required by law or by a treaty, agreement or arrangement made under an Act or an Act of Canada.

Direct collection without consent

289 A service provider may collect personal information directly from the individual to whom the information relates, even if the individual is not capable, if,

- (a) the collection is reasonably necessary for the provision of a service and it is not reasonably possible to obtain consent in a timely manner;
- (b) the collection is reasonably necessary to assess, reduce or eliminate a risk of serious harm to a person or group of persons; or
- (c) the service provider is a society and the information is reasonably necessary to assess, reduce or eliminate a risk of harm to a child.

Notice to individual re use or disclosure of information

290 Where a service provider collects personal information directly from an individual, the service provider shall give the individual notice that the information may be used or disclosed in accordance with this Part.

Permitted use

291 (1) A service provider may use personal information collected for the purpose of providing a service,

- (a) for the purpose for which the information was collected or created and for all the functions reasonably necessary for carrying out that purpose, including providing the information to an officer, employee, consultant or agent of the service provider, but not if the information was collected with the consent of the individual or under clause 288 (2) (a) and the individual expressly instructs otherwise;
- (b) if the service provider believes on reasonable grounds that the use is reasonably necessary to assess, reduce or eliminate a risk of serious harm to a person or group of persons;
- (c) for a purpose for which this Act, another Act or an Act of Canada permits or requires a person to disclose it to the service provider;
- (d) for planning, managing or delivering services that the service provider provides or funds, in whole or in part, allocating resources to any of them, evaluating or monitoring any of them or detecting, monitoring or preventing fraud or any unauthorized receipt of services or benefits related to any of them;
- (e) for the purpose of risk management and error management activities;
- (f) for the purpose of activities to improve or maintain the quality of a service;
- (g) for the purpose of disposing of the information or modifying the information in order to conceal the identity of the individual;
- (h) for the purpose of seeking the individual's consent, or the consent of the individual's substitute-decision maker, when the personal information used by the service provider for this purpose is limited to the name and contact information of the individual and the name and contact information of the substitute decision-maker, where applicable;
- (i) for the purpose of a proceeding or contemplated proceeding in which the service provider or an officer, employee, agent or former officer, employee or agent of the service provider is, or is expected to be, a party or witness, if the information relates to or is a matter in issue in the proceeding or contemplated proceeding;
- (j) for research conducted by the service provider, subject to the requirements and restrictions, if any, that may be prescribed; or
- (k) subject to the requirements and restrictions, if any, that are prescribed, if permitted or required by law or by a treaty, agreement or arrangement made under an Act or an Act of Canada.

Exception

(2) Despite clause (1) (a), where the individual to whom the personal information relates expressly instructs otherwise,

- (a) a society may nonetheless use that personal information,
 - (i) if it is reasonably necessary to assess, reduce or eliminate a risk of harm to a child, or
 - (ii) for a prescribed purpose related to a society's functions under subsection 35 (1); and
- (b) a service provider may nonetheless use that personal information if it is reasonably necessary to assess, reduce or eliminate a risk of serious harm to a person or group of persons.

Disclosure without consent

292 (1) A service provider may, without the consent of the individual, disclose personal information about an individual that has been collected for the purpose of providing a service,

- (a) to a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or to allow the agency to determine whether to undertake such an investigation;
- (b) to a proposed litigation guardian or legal representative of the individual for the purpose of having the person appointed as such;
- (c) to a litigation guardian or legal representative who is authorized under the Rules of Civil Procedure, or by a court order, to commence, defend or continue a proceeding on behalf of the individual or to represent the individual in a proceeding;
- (d) for the purpose of contacting a relative, member of the extended family, friend or potential substitute decision-maker of the individual, if the individual is injured, incapacitated or otherwise not capable;
- (e) for the purpose of contacting a relative, member of the extended family or friend of the individual if the individual is deceased;
- (f) subject to section 294, for the purpose of complying with,
 - (i) a summons, order or similar requirement issued in a proceeding by a person having jurisdiction to compel the production of information, or
 - (ii) a procedural rule that relates to the production of information in a proceeding;
- (g) if the service provider believes on reasonable grounds that the disclosure is necessary to assess, reduce or eliminate a risk of serious harm to a person or group of persons; or
- (h) if permitted or required by law or by a treaty, agreement or arrangement made under an Act or an Act of Canada, subject to the requirements and restrictions, if any, that are prescribed.

To assess, etc. risk of harm to a child

(2) A society may disclose to another society or to a child welfare authority outside Ontario personal information that has been collected for the purpose of providing a service if the information is reasonably necessary to assess, reduce or eliminate a risk of harm to a child.

For a prescribed purpose related to society's functions

(3) A society may disclose personal information that has been collected for the purpose of providing a service if the information is reasonably necessary for a prescribed purpose related to a society's functions under subsection 35 (1).

Definition

(4) In this section,

"law enforcement" has the same meaning as in subsection 2 (1) of the *Freedom of Information and Protection of Privacy Act*.

Disclosure for planning and managing services, etc.

Disclosure to prescribed entity

293 (1) A service provider may disclose personal information collected by the service provider under the authority of this Act to a prescribed entity for the purposes of analysis or compiling statistical information with respect to the management of, evaluation or monitoring of services, the allocation of resources to or planning for those services, including their delivery, if the prescribed entity meets the requirements under subsection (5).

Disclosure to other person or entity

(2) A service provider may, subject to the prescribed requirements and restrictions, disclose personal information collected by the service provider under the authority of this Act to a person or entity that is not a prescribed entity for the purposes described in subsection (1) and a person or entity to whom a service provider discloses personal information under this subsection shall comply with any prescribed requirements and restrictions with respect to the use, security, disclosure, return or disposal of the information.

Minister may require disclosure

(3) The Minister may require a service provider to disclose information, including personal information, to a prescribed entity, if the prescribed entity meets the requirements under subsection (5), or to a person or entity that is not a prescribed entity, for the purposes described in subsection (1) and a person or entity, including a prescribed entity, to whom a service provider discloses information under this subsection shall comply with any prescribed requirements and restrictions with respect to the use, security, disclosure, return or disposal of the information.

Exception

(4) Subsections (1), (2) and (3) do not apply to prescribed information in prescribed circumstances.

Requirements for prescribed entity

- (5) A service provider may disclose personal information to a prescribed entity under subsection (1) or (3) if,
- (a) the prescribed entity has in place practices and procedures to protect the privacy of the individuals whose personal information it receives and to maintain the confidentiality of the information; and
 - (b) the Commissioner has approved the practices and procedures.

Exception

- (6) Despite clause (5) (b), a service provider may disclose personal information to a prescribed entity under subsection (1) or (3) before the first anniversary of the day this section comes into force even if the Commissioner has not approved its practices and procedures.

Review of practices and procedures by Commissioner

- (7) The Commissioner shall review the practices and procedures of each prescribed entity every three years after they were first approved and advise the service provider whether the prescribed entity continues to meet the requirements of subsection (5).

Prescribed entity or other person or entity may collect personal information

- (8) A prescribed entity or a person or entity that is not a prescribed entity is authorized to collect the personal information that a service provider may disclose to it under subsection (1), (2) or (3).

Use and disclosure of personal information by prescribed entity, other person or entity

- (9) Subject to the exceptions and additional requirements, if any, that are prescribed, a prescribed entity or a person or entity that is not a prescribed entity that receives personal information under subsection (1), (2) or (3) shall not use the information except for the purposes for which it received the information and shall not disclose the information except as required by law.

Deemed compliance

- (10) For the purpose of clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act*, clause 32 (e) of the *Municipal Freedom of Information and Protection of Privacy Act* or clause 43 (1) (h) of the *Personal Health Information Protection Act, 2004*, a disclosure of personal information by an institution or a health information custodian, within the meaning of those Acts, under this section is deemed to be for the purposes of complying with this Act.

Records of mental disorders**Definitions**

294 (1) In this section,

“court” includes the Divisional Court; (“tribunal”)

“record of a mental disorder” means a record or a part of a record made about an individual concerning a substantial disorder of the individual’s emotional processes, thought or cognition which grossly impairs the individual’s capacity to make reasoned judgments. (“dossier relatif à un trouble mental”)

Disclosure pursuant to summons, etc.

- (2) A service provider shall disclose, transmit or permit the examination of a record of a mental disorder pursuant to a summons, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court or other body unless a physician states in writing that the physician believes that to do so,
- (a) is likely to detrimentally affect the treatment or recovery of the individual to whom the record relates; or
 - (b) is likely to result in,
 - (i) injury to the mental condition of another individual, or
 - (ii) bodily harm to another individual.

Court or body to determine whether to disclose

- (3) Where the disclosure, transmittal or examination of a record of a mental disorder is required by a court or body before which a matter is in issue, the court or body shall determine whether the record referred to in the physician’s statement should be disclosed, transmitted or examined.

Hearing

- (4) Before making a determination under subsection (3), the court or body shall give notice to the physician and, if the court or body holds a hearing to determine whether the record should be disclosed, transmitted or examined, it shall be held in the absence of the public.

Matters to be considered

(5) In making a determination under subsection (3), the court or body shall consider whether or not the disclosure, transmittal or examination of the record of a mental disorder referred to in the physician's statement is likely to have a result described in clause (2) (a) or (b) and, for that purpose, the court or body may examine the record.

Order

(6) The court or body shall not order that the record of a mental disorder referred to in the physician's statement be disclosed, transmitted or examined if the court or body is satisfied that a result described in clause (2) (a) or (b) is likely, unless satisfied that to do so is essential in the interests of justice.

Conflict

(7) Subsections (2) to (6) apply despite anything in the *Personal Health Information Protection Act, 2004*.

Return of record to service provider

(8) Where a record of a mental disorder is ordered to be disclosed, transmitted or examined under this section, the clerk of the court or body in which it is admitted in evidence or, if not so admitted, the person to whom the record is transmitted, shall return the record to the service provider as soon as possible after the determination of the matter in issue in respect of which the record was required.

CONSENT**Elements of consent for collection, use and disclosure of personal information**

295 (1) If this Act or any other Act requires the consent of an individual to the collection, use or disclosure of personal information by a service provider, the consent,

- (a) must be a consent of the individual;
- (b) must be knowledgeable;
- (c) must relate to the information; and
- (d) must not be obtained through deception or coercion.

Implied consent for collection and use

(2) A consent to the collection and use of personal information may be implied if the collection is made directly from the individual to whom the information relates and is collected for the purpose of providing a service.

Consent may be written or oral

(3) A consent may be written or oral, but an oral consent may be relied on only if the service provider that obtains the consent makes a written record that sets out the following information:

- 1. The name of the individual who gave the consent.
- 2. The information to which the consent relates.
- 3. The manner in which the notice of purposes required by subsection (5) was provided to the individual.

Knowledgeable consent

(4) A consent to the collection, use or disclosure of personal information is knowledgeable if it is reasonable in the circumstances to believe that the individual to whom the information relates knows,

- (a) the purposes of the collection, use or disclosure; and
- (b) that the individual may give, withhold or withdraw consent.

Notice of purposes

(5) Unless it is not reasonable in the circumstances, an individual is deemed to know the purposes of the collection, use or disclosure of personal information about the individual if the service provider,

- (a) posts a notice describing the purposes where it is likely to come to the individual's attention;
- (b) makes such a notice readily available to the individual;
- (c) gives the individual a copy of such notice; or
- (d) otherwise communicates the content of such notice to the individual.

Transition

(6) A consent that an individual gives, before the day that subsection (1) comes into force, to a collection, use or disclosure of personal information is a valid consent if it meets the requirements of this section for consent.

Withdrawal of consent

296 A consent may be withdrawn by the individual who gave the consent by providing notice to the service provider, but the withdrawal of the consent shall not have retroactive effect.

Conditional consent

297 If an individual places a condition on their consent to the collection, use or disclosure of personal information, the condition is not effective to the extent that it purports to prohibit or restrict the making of any record of personal information by a service provider that is required by law or by established standards of professional or institutional practice.

Presumption of consent's validity

298 A service provider that has obtained an individual's consent to the collection, use or disclosure of personal information about the individual or who has received a copy of a document purporting to be a record of the individual's consent, may presume that the consent fulfils the requirements of this Act and that the individual has not withdrawn it, unless it is not reasonable to do so.

CAPACITY AND SUBSTITUTE DECISION-MAKING

Presumption of capacity

299 An individual is presumed to be capable, and a service provider may rely on this presumption unless the service provider has reasonable grounds to believe that the individual is not capable.

Differing capacity

Re different information

300 (1) An individual may be capable with respect to some parts of personal information, but incapable with respect to other parts.

At different times

(2) An individual may be capable at one time, but incapable at another time.

Substitute decision-maker

301 (1) An individual who is capable may give, withhold or withdraw consent or may, if the individual is 16 or older, authorize in writing another individual who is 16 or older and capable to be the individual's substitute decision-maker.

For child younger than 16

(2) If the individual is a child younger than 16, the child's parent or a society or other person who is authorized to give, withhold or withdraw consent in the place of the parent may be the child's substitute decision-maker unless the information relates to,

- (a) treatment about which the child has made a decision in accordance with the *Health Care Consent Act, 1996*; or
- (b) counselling to which the child has consented on their own under this Act or the old Act.

Capable child prevails over substitute decision-maker

(3) If the individual is a child younger than 16 who is capable and if there is a person who is authorized to act as the substitute decision-maker of the child under subsection (2), a decision of the child to give, withhold or withdraw the consent prevails over a conflicting decision by the substitute decision-maker.

Person authorized under *PHIPA* may be substitute decision-maker

(4) Where an individual is not capable of consenting to the collection, use or disclosure of personal information, a person who would be authorized to consent to the collection, use or disclosure of personal health information on the individual's behalf under the *Personal Health Information Protection Act, 2004* may be the individual's substitute decision-maker.

Factors to consider for consent

302 (1) A person who consents under this Part on behalf of or in the place of an individual to a collection, use or disclosure of personal information by a service provider, who withholds or withdraws such a consent or who provides an express instruction under clause 291 (1) (a) shall take into consideration,

- (a) the wishes, values and beliefs that,
 - (i) if the individual is capable, the person knows the individual holds and believes the individual would want reflected in decisions made concerning the individual's personal information, or
 - (ii) if the individual is incapable or deceased, the person knows the individual held when capable or alive and believes the individual would have wanted reflected in decisions made concerning the individual's personal information;

- (b) whether the benefits that the person expects from the collection, use or disclosure of the information outweigh the risk of negative consequences occurring as a result of the collection, use or disclosure;
- (c) whether the purpose for which the collection, use or disclosure is sought can be accomplished without the collection, use or disclosure; and
- (d) whether the collection, use or disclosure is necessary to satisfy any legal obligation.

Determination of compliance

(2) If a substitute decision-maker, on behalf of an incapable individual, gives, withholds or withdraws a consent to a collection, use or disclosure of personal information about the individual by a service provider or provides an express instruction under clause 291 (1) (a) and if the service provider is of the opinion that the substitute decision-maker has not complied with subsection (1), the service provider may apply to a body prescribed for the purposes of this section for a determination as to whether the substitute decision-maker complied with that subsection.

Deemed application concerning capacity

(3) An application to a body prescribed under subsection (2) is deemed to include an application to a prescribed body under subsection 304 (3) with respect to the individual's capacity, unless the individual's capacity has been determined by a prescribed body under section 304 within the previous six months.

Parties

(4) The parties to the application are:

1. The service provider.
2. The incapable individual.
3. The substitute decision-maker.
4. Any other person whom the prescribed body specifies.

Power of prescribed body

(5) In determining whether the substitute decision-maker complied with subsection (1), the prescribed body may substitute its opinion for that of the substitute decision-maker.

Directions

(6) If the prescribed body determines that the substitute decision-maker did not comply with subsection (1), it may give the substitute decision-maker directions and, in doing so, shall take into consideration the matters set out in clauses (1) (a) to (d).

Time for compliance

(7) The prescribed body shall specify the time within which the substitute decision-maker must comply with its directions.

Deemed not authorized

(8) If the substitute decision-maker does not comply with the directions of the prescribed body within the time specified by the prescribed body, the substitute decision-maker is deemed not to meet the requirements of subsection 301 (4).

Public Guardian and Trustee

(9) If the substitute decision-maker who is given directions is the Public Guardian and Trustee, the substitute decision-maker is required to comply with the directions and subsection (7) does not apply to the substitute decision-maker.

Procedure

(10) A body prescribed for the purposes of this section shall comply with the prescribed requirements and restrictions in conducting the review.

Additional authority of substitute decision-maker

303 (1) If this Part permits or requires an individual to make a request, give an instruction or take a step and a substitute decision-maker is authorized to consent or withhold or withdraw consent on behalf of the individual to the collection, use or disclosure of personal information about the individual, the substitute decision-maker may also make the request, give the instruction or take the step on behalf of the individual.

References to individual read as substitute decision-maker

(2) If a substitute decision-maker makes a request, gives an instruction or takes a step under subsection (1) on behalf of an individual, references in this Part to the individual with respect to the request made, the instruction given or the step taken by the substitute decision-maker shall be read as references to the substitute decision-maker, and not to the individual.

Determination of incapacity

304 (1) A service provider that determines that an individual is incapable shall do so in accordance with the requirements and restrictions, if any, that are prescribed.

Information about determination

(2) If it is reasonable in the circumstances, a service provider shall provide, to an individual determined to be incapable, information about the consequences of the determination of incapacity, including the information, if any, that is prescribed.

Review of determination

(3) When a service provider determines that an individual is incapable, the individual or a prescribed person may apply to a body prescribed for the purposes of this section for a review of the determination.

Review body

(4) A body prescribed for the purposes of this section shall comply with the prescribed requirements and restrictions in conducting the review.

Parties

(5) The parties to an application made under subsection (3) are,

- (a) the individual or prescribed person who applied for the review of the determination;
- (b) the service provider who made the determination of incapacity; and
- (c) any other persons whom the prescribed body specifies.

Powers of review body

(6) A body prescribed for the purposes of this section may confirm the determination of incapacity or may determine that the individual is capable.

Restriction on repeated applications

(7) If a determination that an individual is incapable is confirmed on the final disposition of an application under this section, the individual shall not make a new application under this section for a determination with respect to the same or a similar issue within six months after the final disposition of the earlier application, unless the body prescribed for the purposes of this section gives leave in advance.

Grounds for leave

(8) The prescribed body may give leave for the new application to be made if it is satisfied that there has been a material change in circumstances that justifies reconsideration of the individual's capacity.

Appointment of representative

305 (1) An individual who is 16 or older and who is determined to be incapable may apply to a body prescribed for the purposes of this section for appointment of a representative to consent on the individual's behalf to a collection, use or disclosure of personal information by a service provider.

Application by proposed representative

(2) If an individual is incapable, another individual who is 16 or older may apply to a body prescribed for the purposes of this section to be appointed as a representative to consent on behalf of the incapable individual to a collection, use or disclosure of personal information.

Deemed application concerning capacity

(3) An application to a prescribed body under subsection (1) or (2) is deemed to include an application to a prescribed body under subsection 304 (3) with respect to the individual's capacity, unless the individual's capacity has been determined by a prescribed body under section 304 within the previous six months.

Exception

(4) Subsections (1) and (2) do not apply if the individual to whom the personal information relates has a guardian of the person, a guardian of property, an attorney for personal care or an attorney for property, who has authority to give or refuse consent to the collection, use or disclosure.

Parties

(5) The parties to the application are:

- 1. The individual to whom the personal information relates.
- 2. The proposed representative named in the application.

3. Every person who is described in paragraph 4, 5, 6 or 7 of subsection 26 (1) of the *Personal Health Information Protection Act, 2004*.

4. All other persons whom the prescribed body specifies.

Appointment

(6) In an appointment under this section, the prescribed body may authorize the representative to consent, on behalf of the individual to whom the personal information relates, to,

- (a) a particular collection, use or disclosure at a particular time;
- (b) a collection, use or disclosure of the type specified by the prescribed body in circumstances specified by the prescribed body, if the individual is determined to be incapable at the time the consent is sought; or
- (c) any collection, use or disclosure at any time, if the individual is determined to be incapable at the time the consent is sought.

Criteria for appointment

(7) The prescribed body may make an appointment under this section if it is satisfied that the following requirements are met:

- 1. The individual to whom the personal information relates does not object to the appointment.
- 2. The representative consents to the appointment, is at least 16 and is capable.
- 3. The appointment is in the best interests of the individual to whom the personal information relates.

Powers of prescribed body

(8) Unless the individual to whom the personal information relates objects, the prescribed body may,

- (a) appoint as representative a different individual than the one named in the application;
- (b) limit the duration of the appointment;
- (c) impose any other condition on the appointment; or
- (d) on any person's application, remove, vary or suspend a condition imposed on the appointment or impose an additional condition on the appointment.

Termination

(9) A body prescribed for the purposes of this section may, on any person's application, terminate an appointment made under this section if,

- (a) the individual to whom the personal information relates or the representative requests the termination;
- (b) the representative is no longer capable;
- (c) the appointment is no longer in the best interests of the individual to whom the personal information relates; or
- (d) the individual to whom the personal information relates has a guardian of the person, a guardian of property, an attorney for personal care or an attorney for property, who has authority to give or refuse consent to the types of collections, uses and disclosures for which the appointment was made and in the circumstances to which the appointment applies.

Procedure

(10) A body prescribed for the purposes of this section shall comply with the prescribed requirements and restrictions in conducting the review.

INTEGRITY AND PROTECTION OF PERSONAL INFORMATION

Steps to ensure accuracy, etc. of personal information

Personal information used by service provider

306 (1) A service provider that uses personal information for the purpose of providing a service shall take reasonable steps to ensure that the information is as accurate, complete and up-to-date as is necessary for the purposes for which it uses the information.

Personal information disclosed by service provider

(2) A service provider that discloses personal information that has been collected for the purpose of providing a service shall,

- (a) take reasonable steps to ensure that the information is as accurate, complete and up-to-date as is necessary for the purposes of the disclosure that are known to the service provider at the time of the disclosure; or

- (b) clearly set out for the recipient of the disclosure the limitations, if any, on the accuracy, completeness or up-to-date character of the information.

Record of disclosed personal information

(3) A service provider that discloses personal information that has been collected for the purpose of providing a service shall record the disclosures made under the prescribed provisions in the prescribed manner.

Steps to ensure collection of personal information is authorized

307 A service provider shall take reasonable steps to ensure that personal information is not collected without authority.

Steps to ensure security of personal information

308 (1) A service provider shall take reasonable steps to ensure that personal information that has been collected for the purpose of providing a service and that is in the service provider's custody or control is protected against theft, loss and unauthorized use or disclosure and to ensure that the records containing the information are protected against unauthorized copying, modification or disposal.

Notice of theft, loss, etc. to individual

(2) Subject to any prescribed exceptions and additional requirements, if personal information that has been collected for the purpose of providing a service and that is in a service provider's custody or control is stolen or lost or if it is used or disclosed without authority, the service provider shall,

- (a) notify the individual to whom the information relates at the first reasonable opportunity of the theft, loss or unauthorized use or disclosure; and
- (b) include in the notice a statement that the individual is entitled to make a complaint to the Commissioner under section 316.

Notice to Commissioner and Minister

(3) If the circumstances surrounding the theft, loss or unauthorized use or disclosure meet the prescribed requirements, the service provider shall notify the Commissioner and the Minister of the theft, loss or unauthorized use or disclosure.

Handling of records

309 (1) A service provider,

- (a) shall take reasonable steps to ensure that the records of personal information collected for the purpose of providing a service that are in its custody or control are retained, transferred and disposed of in a secure manner; and
- (b) shall comply with any prescribed requirements in respect of the retention, transfer and disposal of those records.

Retention of records subject to access request

(2) Despite subsection (1), a service provider that has custody or control of personal information that is subject to a request for access under section 312 shall retain the information for as long as necessary to allow the individual to exhaust any recourse under this Act that they may have with respect to the request.

Disclosure to successor

310 (1) A service provider may disclose personal information about an individual to a potential successor of the service provider, for the purpose of allowing the potential successor to assess and evaluate the operations of the service provider, if the potential successor first enters into an agreement with the service provider to keep the information confidential and secure and not to retain any of the information longer than is necessary for the purpose of the assessment or evaluation.

Transfer to successor

(2) A service provider may transfer records of personal information about an individual to the service provider's successor if the service provider makes reasonable efforts to give notice to the individual before transferring the records or, if that is not reasonably possible, as soon as possible after transferring the records.

Definitions

(3) In this section,

"potential successor" and "successor" mean a potential successor or a successor that is a service provider or that will be a service provider if it becomes a successor.

Written public statement by service provider

311 (1) A service provider shall, in a manner that is practical in the circumstances, make available to the public a written statement in plain, easy-to-understand language that,

- (a) provides a general description of the service provider's information practices;

- (b) describes how to contact the service provider;
- (c) describes how an individual may obtain access to or request correction of a record of personal information about the individual that is in the custody or control of the service provider; and
- (d) describes how to make a complaint to the service provider and to the Commissioner under this Part.

Use or disclosure contrary to service provider's information practices

(2) If a service provider uses or discloses personal information about an individual, without the individual's consent, in a manner that is outside the scope of the service provider's description of its information practices under clause (1) (a), the service provider shall,

- (a) inform the individual of the uses and disclosures at the first reasonable opportunity, unless the individual does not have a right of access under section 312 to a record of the information;
- (b) make a note of the uses and disclosures; and
- (c) keep the note as part of the record of personal information about the individual that it has in its custody or under its control or in a form that is linked to that record.

INDIVIDUAL'S ACCESS TO PERSONAL INFORMATION

Individual's right of access

312 (1) An individual has a right of access to a record of personal information about the individual that is in a service provider's custody or control and that relates to the provision of a service to the individual unless,

- (a) the record or the information in the record is subject to a legal privilege that restricts its disclosure to the individual;
- (b) another Act, an Act of Canada or a court order prohibits its disclosure to the individual;
- (c) the information in the record was collected or created primarily in anticipation of or for use in a proceeding, and the proceeding, together with all appeals or processes resulting from it, has not been concluded; or
- (d) granting the access could reasonably be expected to,
 - (i) result in a risk of serious harm to the individual or another individual,
 - (ii) lead to the identification of an individual who was required by law to provide information in the record to the service provider, or
 - (iii) lead to the identification of an individual who provided information in the record to the service provider explicitly or implicitly in confidence if the service provider considers it appropriate in the circumstances that the identity of the individual be kept confidential.

Right of access to part of record not restricted

(2) Despite subsection (1), an individual has a right of access to that part of a record of personal information about the individual that can reasonably be severed from the part of the record to which the individual does not have a right of access under any of clauses (1) (a) to (d).

Right of access to part of record not dedicated to provision of service

(3) Despite subsection (1), if a record is not a record dedicated primarily to the provision of a service to the individual requesting access, the individual has a right of access only to the personal information about the individual in the record that can reasonably be severed from the record.

Consultation regarding harm

(4) Before deciding to refuse to grant an individual access to a record of personal information under subclause (1) (d) (i), a service provider may consult with a member of the College of Physicians and Surgeons of Ontario, a member of the College of Psychologists of Ontario or a member of the Ontario College of Social Workers and Social Service Workers.

Informal access

(5) Nothing in this Part prevents a service provider from granting an individual access to a record of personal information to which the individual has a right of access, if the individual makes an oral request for access or does not make a request for access under section 313.

Service provider may communicate with individual

(6) Nothing in this Part prevents a service provider from communicating with an individual or the individual's substitute decision-maker with respect to a record of personal information to which the individual has a right of access.

Request for access

313 (1) An individual may exercise a right of access to a record of personal information by making a written request for access to the service provider that has custody or control of the information.

Details required

(2) The request must contain sufficient detail to enable the service provider to identify and locate the record with reasonable efforts.

Service provider must assist individual making request

(3) If the request does not contain sufficient detail to enable the service provider to identify and locate the record with reasonable efforts, the service provider shall offer assistance to the person requesting access in reformulating the request to comply with subsection (2).

Response of service provider

314 (1) A service provider that receives a request from an individual for access to a record of personal information shall,

- (a) make the record available to the individual for examination and, at the request of the individual, provide a copy of the record to the individual and if reasonably practical, an explanation of the purpose and nature of the record and any term, code or abbreviation used in the record;
- (b) give a written notice to the individual stating that, after a reasonable search, the service provider has concluded that the record does not exist, cannot be found, or is not a record to which this Part applies;
- (c) if the service provider refuses the request, in whole or in part, under any provision of this Part other than clause 312 (1) (c) or (d), give a written notice to the individual stating that the service provider is refusing the request, in whole or in part, providing a reason for the refusal and stating that the individual is entitled to make a complaint about the refusal to the Commissioner under section 316; or
- (d) subject to subsection (2), if the service provider refuses the request, in whole or in part, under clause 312 (1) (c) or (d), give a written notice to the individual stating that the individual is entitled to make a complaint about the refusal to the Commissioner under section 316 and that the service provider is refusing,
 - (i) the request, in whole or in part, while citing which of clauses 312 (1) (c) and (d) apply,
 - (ii) the request, in whole or in part, under one or both of clauses 312 (1) (c) and (d), while not citing which of those provisions apply, or
 - (iii) to confirm or deny the existence of any record subject to clauses 312 (1) (c) and (d).

Exception

(2) A service provider shall not act under subclause (1) (d) (i) where doing so would reasonably be expected in the circumstances known to the person making the decision on behalf of the service provider to reveal to the individual, directly or indirectly, information to which the individual does not have a right of access.

Time for response

(3) As soon as possible, but no later than 30 days after receiving the request, the service provider shall, by written notice to the individual, give the response required by subsection (1) or extend the deadline for responding by not more than 90 days if,

- (a) responding to the request within 30 days would unreasonably interfere with the operations of the service provider because the information consists of numerous pieces of information or locating the information would necessitate a lengthy search; or
- (b) the time required to undertake an assessment under subsection 312 (1) necessary to respond to the request within 30 days after receiving it would make it not reasonably practical to respond within that time.

Extension of time — notice and response

(4) A service provider that extends the time limit under subsection (3) shall,

- (a) give the individual written notice of the extension setting out the length of the extension and the reason for it; and
- (b) respond as required by subsection (1) as soon as possible but no later than the expiry of the time limit as extended.

Expedited access

(5) Despite subsections (3) and (4), if the individual provides the service provider with evidence satisfactory to the service provider that the individual requires access to the requested record of personal information within a specified time period, the service provider shall respond within that time period if the service provider is reasonably able to do so.

Frivolous or vexatious requests

(6) A service provider that believes on reasonable grounds that a request for access to a record of personal information is frivolous or vexatious or is made in bad faith may refuse to grant the individual access to the requested record and, in that case, shall provide the individual with a notice that sets out the reasons for the refusal and that states that the individual is entitled to make a complaint about the refusal to the Commissioner under section 316.

Deemed refusal

(7) A service provider that does not respond to a request for access within the time required is deemed to have refused the request.

Right to complain

(8) If the service provider refuses or is deemed to have refused the request, in whole or in part,

- (a) the individual is entitled to make a complaint about the refusal to the Commissioner under section 316; and
- (b) in the complaint, the burden of proof in respect of the refusal lies on the service provider.

Identity of individual

(9) A service provider shall not make a record of personal information or a part of it available to an individual or provide a copy of it to an individual under clause (1) (a) without first taking reasonable steps to be satisfied as to the individual's identity.

No fee for access

(10) A service provider shall not charge a fee for providing access to a record under this section, except in the prescribed circumstances.

CORRECTIONS TO RECORDS**Correction to record****Interpretation**

315 (1) In this section, a reference to a correction to a record or to correct a record includes the addition of, or adding, information to make the record complete.

Written request

(2) If a service provider has granted an individual access to a record of personal information and if the individual believes that the record is inaccurate or incomplete, the individual may request in writing that the service provider correct the record.

Informal request

(3) If the individual makes an oral request that the service provider correct the record, nothing in this section prevents the service provider from making the requested correction.

Time for response

(4) As soon as possible, but no later than 30 days after receiving a request for a correction under subsection (2), the service provider shall, by written notice to the individual, grant or refuse the individual's request or extend the deadline for responding by not more than 90 days if,

- (a) responding to the request within 30 days would unreasonably interfere with the operations of the service provider; or
- (b) the time required to undertake the consultations necessary to respond to the request within 30 days would make it not reasonably practical to respond within that time.

Extension of time

(5) A service provider that extends the time limit under subsection (4) shall by written notice to the individual,

- (a) set out the length of the extension and the reason for it; and
- (b) grant or refuse the individual's request as soon as possible in the circumstances but no later than the expiry of the time limit as extended.

Frivolous or vexatious requests

(6) A service provider that believes on reasonable grounds that a request for a correction is frivolous or vexatious or is made in bad faith may refuse to grant the request and, in that case, shall provide the individual with a notice that sets out the reasons for the refusal and that states that the individual is entitled to make a complaint about the refusal to the Commissioner under section 316.

Deemed refusal

(7) A service provider that does not respond to a request for a correction within the time required is deemed to have refused the request.

Right to complain

- (8) If the service provider refuses or is deemed to have refused the request, in whole or in part,
- (a) the individual is entitled to make a complaint about the refusal to the Commissioner under section 316; and
 - (b) in the complaint, the burden of proof in respect of the refusal lies on the service provider.

Duty to correct

(9) The service provider shall grant a request for a correction if the individual demonstrates, to the service provider's satisfaction, that the record is inaccurate or incomplete and gives the service provider the information necessary to enable the service provider to correct the record.

Exceptions

- (10) Despite subsection (9), a service provider is not required to correct a record of personal information if,
- (a) it consists of a record that was not originally created by the service provider and the service provider does not have sufficient knowledge, expertise or authority to correct the record; or
 - (b) it consists of a professional opinion or observation that was made in good faith about the individual.

Manner of making the correction

- (11) Upon granting a request for a correction, the service provider shall,
- (a) make the requested correction,
 - (i) by recording the correct information in the record or, if that is not possible, by ensuring that there is a practical system in place to inform a person who accesses the record that the information in the record is incorrect or incomplete and to direct the person to the correct information, and
 - (ii) by striking out the incorrect information in a manner that does not obliterate the record or, if that is not possible, by labelling the information as incorrect, severing the incorrect information from the record, storing it separately from the record and maintaining a link in the record that enables a person to trace the incorrect information;
 - (b) give notice to the individual of what has been done under clause (a); and
 - (c) at the request of the individual, give written notice of the requested correction, to the extent reasonably possible, to the persons to whom the service provider has disclosed the information with respect to which the individual requested the correction of the record, unless the correction cannot reasonably be expected to have an effect on the ongoing provision of services.

Notice of refusal

- (12) A notice of refusal under subsection (4) or (5) must give the reasons for the refusal and inform the individual that the individual is entitled to,
- (a) prepare a concise statement of disagreement that sets out the correction that the service provider has refused to make;
 - (b) require that the service provider attach the statement of disagreement as part of the records that it holds of the individual's personal information and disclose the statement of disagreement whenever the service provider discloses information to which the statement relates;
 - (c) require that the service provider make all reasonable efforts to disclose the statement of disagreement to any person who would have been notified under clause (11) (c) if the service provider had granted the requested correction; and
 - (d) make a complaint about the refusal to the Commissioner under section 316.

Rights of individual

(13) If a service provider refuses a request for a correction, in whole or in part, or is deemed to have refused the request, the individual is entitled to take any of the actions described in subsection (12).

Service provider's duty

(14) If the individual takes an action described in clause (12) (b) or (c), the service provider shall comply with the requirements described in the applicable clause.

No fee for correction

(15) A service provider shall not charge a fee for correcting a record under this section, or for complying with subsection (14).

COMPLAINTS, REVIEWS AND INSPECTIONS

Complaint to Commissioner

316 (1) A person who has reasonable grounds to believe that another person has contravened or is about to contravene a provision of this Part or the regulations made for the purposes of this Part may make a complaint to the Commissioner.

Time for complaint

(2) A complaint made under subsection (1) must be in writing and must be filed within,

- (a) one year after the subject-matter of the complaint first came to the attention of the complainant or should reasonably have come to the attention of the complainant, whichever is the shorter; or
- (b) whatever longer period of time that the Commissioner permits if the Commissioner is satisfied that it does not result in prejudice to any person.

Same, refusal of request

(3) A complaint that an individual makes under clause 314 (1) (c) or (d), subsection 314 (8), 315 (6) or (8) or clause 315 (12) (d) must be in writing and must be filed within six months after the service provider refused or is deemed to have refused the individual's request.

Response of Commissioner

317 (1) Upon receiving a complaint made under this Part, the Commissioner may inform the person about whom the complaint is made of the nature of the complaint and,

- (a) inquire as to what means, other than the complaint, that the complainant is using or has used to resolve the subject-matter of the complaint;
- (b) require the complainant to try to effect a settlement, within the time period that the Commissioner specifies, with the person about which the complaint is made; or
- (c) authorize a mediator to review the complaint and to try to effect a settlement, within the time period that the Commissioner specifies, between the complainant and the person about which the complaint is made.

Dealings without prejudice

(2) If the Commissioner takes an action described in clause (1) (b) or (c) but no settlement is effected within the time period specified,

- (a) none of the dealings between the parties to the attempted settlement shall prejudice the rights and duties of the parties under this Part;
- (b) none of the information disclosed in the course of trying to effect a settlement shall prejudice the rights and duties of the parties under this Part; and
- (c) none of the information disclosed in the course of trying to effect a settlement and that is subject to mediation privilege shall be used or disclosed outside the attempted settlement, including in a review of a complaint under this section or in an inspection under section 320, unless all parties expressly consent.

Commissioner's review

(3) If the Commissioner does not take an action described in clause (1) (b) or (c) or if the Commissioner takes an action described in one of those clauses but no settlement is effected within the time period specified, the Commissioner may review the subject-matter of a complaint made under this Part if satisfied that there are reasonable grounds to do so.

No review

(4) The Commissioner may decide not to review the subject-matter of the complaint for whatever reason the Commissioner considers proper, including if satisfied that,

- (a) the person about which the complaint is made has responded adequately to the complaint;
- (b) the complaint has been or could be more appropriately dealt with, initially or completely, by means of a procedure, other than a complaint under this Part;
- (c) the length of time that has elapsed between the date when the subject-matter of the complaint arose and the date the complaint was made is such that a review under this section would likely result in undue prejudice to any person;
- (d) the complainant does not have a sufficient personal interest in the subject-matter of the complaint; or
- (e) the complaint is frivolous or vexatious or is made in bad faith.

Notice

(5) Upon deciding not to review the subject-matter of a complaint, the Commissioner shall give notice of the decision to the complainant and shall specify in the notice the reason for the decision.

Same

(6) Upon deciding to review the subject-matter of a complaint, the Commissioner shall give notice of the decision to the person about whom the complaint is made.

Commissioner's self-initiated review

318 (1) The Commissioner may, on the Commissioner's own initiative, conduct a review of any matter if the Commissioner has reasonable grounds to believe that a person has contravened or is about to contravene a provision of this Part or the regulations and that the subject-matter of the review relates to the contravention.

Notice

(2) Upon deciding to conduct a review under this section, the Commissioner shall give notice of the decision to every person whose activities are being reviewed.

Conduct of Commissioner's review

319 (1) In conducting a review under section 317 or 318, the Commissioner may make the rules of procedure that the Commissioner considers necessary and the *Statutory Powers Procedure Act* does not apply to the review.

Evidence

(2) In conducting a review under section 317 or 318, the Commissioner may receive and accept any evidence and other information that the Commissioner sees fit, whether on oath or by affidavit or otherwise and whether or not it is or would be admissible in a court of law.

Inspection powers

320 (1) In conducting a review under section 317 or 318, the Commissioner may, without a warrant or court order, enter and inspect any premises in accordance with this section if,

- (a) the Commissioner has reasonable grounds to believe that,
 - (i) the person about whom the complaint was made or the person whose activities are being reviewed is using the premises for a purpose related to the subject-matter of the complaint or the review, as the case may be, and
 - (ii) the premises contains books, records or other documents relevant to the subject-matter of the complaint or the review, as the case may be; and
- (b) the Commissioner is conducting the inspection for the purpose of determining whether the person has contravened or is about to contravene a provision of this Part or the regulations.

Review powers

(2) In conducting a review under section 317 or 318, the Commissioner may,

- (a) demand the production of any books, records or other documents relevant to the subject-matter of the review or copies of extracts from the books, records or other documents;
- (b) inquire into all information, records, information practices of a service provider and other matters that are relevant to the subject-matter of the review;
- (c) demand the production for inspection of anything described in clause (b);
- (d) use any data storage, processing or retrieval device or system belonging to the person being investigated in order to produce a record in readable form of any books, records or other documents relevant to the subject-matter of the review; or
- (e) on the premises that the Commissioner has entered, review or copy any books, records or documents that a person produces to the Commissioner, if the Commissioner pays the reasonable cost recovery fee that the service provider or person being reviewed may charge.

Entry to dwellings

(3) The Commissioner shall not, without the consent of the occupier, exercise a power to enter a place that is being used as a dwelling, except under the authority of a search warrant issued under subsection (4).

Search warrants

(4) Where a justice of the peace is satisfied by evidence upon oath or affirmation that there is reasonable ground to believe it is necessary to enter a place that is being used as a dwelling to investigate a complaint that is the subject of a review under section 317 or 318, the justice of the peace may issue a warrant authorizing the entry by a person named in the warrant.

Time and manner for entry

(5) The Commissioner shall exercise the power to enter premises under this section only during reasonable hours for the premises and only in such a manner so as not to interfere with services that are being provided to any person on the premises at the time of entry.

No obstruction

(6) No person shall obstruct the Commissioner who is exercising powers under this section or provide the Commissioner with false or misleading information.

Written demand

(7) A demand for books, records or documents or copies of extracts from them under subsection (2) must be in writing and must include a statement of the nature of the things that are required to be produced.

Obligation to assist

(8) If the Commissioner makes a demand for any thing under subsection (2), the person having custody of the thing shall produce it to the Commissioner and, at the request of the Commissioner, shall provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form, if the demand is for a document.

Removal of documents

(9) If a person produces books, records and other documents to the Commissioner, other than those needed for the current provision of services to any person, the Commissioner may, on issuing a written receipt, remove them and may review or copy any of them if the Commissioner is not able to review and copy them on the premises that the Commissioner has entered.

Return of documents

(10) The Commissioner shall carry out any reviewing or copying of documents with reasonable dispatch, and shall promptly after the reviewing or copying return the documents to the person who produced them.

Admissibility of copies

(11) A copy certified by the Commissioner as a copy is admissible in evidence to the same extent, and has the same evidentiary value, as the thing copied.

Answers under oath

(12) In conducting a review under section 317 or 318, the Commissioner may, by summons, in the same manner and to the same extent as a superior court of record, require the appearance of any person before the Commissioner and compel them to give oral or written evidence on oath or affirmation.

Inspection of record without consent

(13) Despite subsections (2) and (12), the Commissioner shall not inspect a record of, require evidence of, or inquire into, personal information without the consent of the individual to whom it relates, unless,

- (a) the Commissioner first determines that it is reasonably necessary to do so, subject to any conditions or restrictions that the Commissioner specifies, which shall include a time limitation, in order to carry out the review and that the public interest in carrying out the review justifies dispensing with obtaining the individual's consent in the circumstances; and
- (b) the Commissioner provides a statement to the person who has custody or control of the record to be inspected, or the evidence or information to be inquired into, setting out the Commissioner's determination under clause (a) together with brief written reasons and any restrictions and conditions that the Commissioner has specified.

Limitation on delegation

(14) Despite subsection 327 (1), the power to make a determination under clause (13) (a) and to approve the brief written reasons under clause (13) (b) may not be delegated except to an Assistant Commissioner.

Document privileged

(15) A document or thing produced by a person in the course of a review is privileged in the same manner as if the review were a proceeding in a court.

Protection

(16) Except on the trial of a person for perjury in respect of the person's sworn testimony, no statement made or answer given by that or any other person in the course of a review by the Commissioner is admissible in evidence in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person.

Protection under federal Act

(17) The Commissioner shall inform a person giving a statement or answer in the course of a review by the Commissioner of the person's right to object to answer any question under section 5 of the *Canada Evidence Act*.

Representations

(18) The Commissioner shall give the person who made the complaint, the person about whom the complaint is made and any other affected person an opportunity to make representations to the Commissioner.

Representative

(19) A person who is given an opportunity to make representations to the Commissioner may be represented by a lawyer or another person.

Access to representations

(20) The Commissioner may permit a person to be present during the representations that another person makes to the Commissioner or to have access to them unless doing so would reveal,

- (a) the substance of a record of personal information, for which a service provider claims to be entitled to refuse a request for access made under section 313; or
- (b) personal information to which an individual is not entitled to request access under section 313.

Proof of appointment

(21) If the Commissioner or an Assistant Commissioner has delegated their powers under this section to an officer or employee of the Commissioner, the officer or employee who exercises the powers shall, upon request, produce the certificate of delegation signed by the Commissioner or Assistant Commissioner, as the case may be.

Powers of Commissioner

321 (1) After conducting a review under section 317 or 318, the Commissioner may,

- (a) if the review relates to a complaint into a request by an individual under subsection 313 (1) for access to a record of personal information, make an order directing the service provider about whom the complaint was made to grant the individual access to the requested record;
- (b) if the review relates to a complaint into a request by an individual under subsection 315 (2) for correction of a record of personal information, make an order directing the service provider about whom a complaint was made to make the requested correction;
- (c) make an order directing any person whose activities the Commissioner reviewed to perform a duty imposed by this Part or the regulations;
- (d) make an order directing any person whose activities the Commissioner reviewed to cease collecting, using or disclosing personal information if the Commissioner determines that the person is collecting, using or disclosing the information, as the case may be, or is about to do so in contravention of this Part or the regulations or an agreement entered into under this Part;
- (e) make an order directing any person whose activities the Commissioner reviewed to dispose of records of personal information that the Commissioner determines the person collected, used or disclosed in contravention of this Part or the regulations or an agreement entered into under this Part but only if the disposal of the records is not reasonably expected to adversely affect the provision of services to an individual;
- (f) make an order directing any service provider whose activities the Commissioner reviewed to change, cease or not implement any information practices specified by the Commissioner, if the Commissioner determines that the information practices contravene this Part or the regulations;
- (g) make an order directing any service provider whose activities the Commissioner reviewed to implement information practices specified by the Commissioner, if the Commissioner determines that the information practices are reasonably necessary in order to achieve compliance with this Part and the regulations;
- (h) make an order directing any person who is an agent or employee of a service provider, whose activities the Commissioner reviewed and that an order made under any of clauses (a) to (g) directs to take any action or to refrain from taking any action, to take the action or to refrain from taking the action if the Commissioner considers that it is necessary to make the order against the agent or employee to ensure that the service provider will comply with the order made against the service provider; or
- (i) make comments and recommendations on the privacy implications of any matter that is the subject of the review.

Terms of order

(2) An order that the Commissioner makes under subsection (1) may contain the terms that the Commissioner considers appropriate.

Copy of order, etc.

(3) Upon making comments, recommendations or an order under subsection (1), the Commissioner shall provide a copy of them, including reasons for any order made, to,

- (a) the complainant and the person about whom the complaint was made, if the Commissioner made the comments, recommendations or order after conducting a review under section 317 of a complaint;
- (b) the person whose activities the Commissioner reviewed, if the Commissioner made the comments, recommendations or order after conducting a review under section 318;
- (c) all other persons to whom the order is directed;
- (d) the body or bodies that are legally entitled to regulate or review the activities of a service provider directed in the order or to whom the comments or recommendations relate; and
- (e) any other person whom the Commissioner considers appropriate.

No order

(4) If, after conducting a review under section 317 or 318, the Commissioner does not make an order under subsection (1), the Commissioner shall give the complainant, if any, and the person whose activities the Commissioner reviewed a notice that sets out the Commissioner's reasons for not making an order.

Appeal of order

322 (1) A person affected by an order of the Commissioner made under any of clauses 321 (1) (c) to (h) may appeal the order to the Divisional Court on a question of law in accordance with the rules of court by filing a notice of appeal within 30 days after receiving the copy of the order.

Certificate of Commissioner

(2) In an appeal under this section, the Commissioner shall certify to the Divisional Court,

- (a) the order and a statement of the Commissioner's reasons for making the order;
- (b) the record of all hearings that the Commissioner has held in conducting the review on which the order is based;
- (c) all written representations that the Commissioner received before making the order; and
- (d) all other material that the Commissioner considers is relevant to the appeal.

Confidentiality of information

(3) In an appeal under this section, the court may take precautions to avoid the disclosure by the court or any person of any personal information about an individual, including, where appropriate, receiving representations without notice, conducting hearings in private or sealing the court files.

Court order

(4) On hearing an appeal under this section, the court may, by order,

- (a) direct the Commissioner to make the decisions and to do the acts that the Commissioner is authorized to do under this Part and that the court considers proper; and
- (b) if necessary, vary or set aside the Commissioner's order.

Compliance by Commissioner

(5) The Commissioner shall comply with the court's order.

Enforcement of order

323 An order made by the Commissioner under this Part that has become final as a result of there being no further right of appeal may be filed with the Superior Court of Justice and on filing becomes and is enforceable as a judgment or order of the Superior Court of Justice to the same effect.

Further order of Commissioner

324 (1) After conducting a review under section 317 or 318 and making an order under subsection 321 (1), the Commissioner may rescind or vary the order or may make a further order under that subsection if new facts relating to the subject-matter of the review come to the Commissioner's attention or if there is a material change in the circumstances relating to the subject-matter of the review.

Circumstances

(2) The Commissioner may exercise the powers described in subsection (1) even if the order that the Commissioner rescinds or varies has been filed with the Superior Court of Justice under section 323.

Copy of order, etc.

(3) Upon making a further order under subsection (1), the Commissioner shall provide a copy of it to the persons described in clauses 321 (3) (a) to (e) and shall include with the copy a notice setting out,

- (a) the Commissioner's reasons for making the order; and
- (b) if the order was made under any of clauses 321 (1) (c) to (h), a statement that the persons affected by the order have the right to appeal described in subsection (4).

Appeal

(4) A person affected by an order that the Commissioner rescinds, varies or makes under any of clauses 321 (1) (c) to (h) may appeal the order to the Divisional Court on a question of law in accordance with the rules of court by filing a notice of appeal within 30 days after receiving the copy of the order and subsections 322 (2) to (5) apply to the appeal.

Damages for breach of privacy

325 (1) If the Commissioner has made an order under this Part that has become final as the result of there being no further right of appeal, a person affected by the order may commence a proceeding in the Superior Court of Justice for damages for actual harm that the person has suffered as a result of a contravention of this Part or the regulations.

Same

(2) If a person has been convicted of an offence under this Part and the conviction has become final as a result of there being no further right of appeal, a person affected by the conduct that gave rise to the offence may commence a proceeding in the Superior Court of Justice for damages for actual harm that the person has suffered as a result of the conduct.

Damages for mental anguish

(3) If, in a proceeding described in subsection (1) or (2), the Superior Court of Justice determines that the harm suffered by the plaintiff was caused by a contravention or offence, as the case may be, that the defendants engaged in wilfully or recklessly, the court may include in its award of damages an award for mental anguish.

General powers of Commissioner

326 The Commissioner may,

- (a) engage in or commission research into matters affecting the carrying out of the purposes of this Part;
- (b) conduct public education programs and provide information concerning this Part and the Commissioner's role and activities;
- (c) receive representations from the public concerning the operation of this Part;
- (d) on the request of a service provider, offer comments on the service provider's actual or proposed information practices;
- (e) assist in investigations and similar procedures conducted by a person who performs similar functions to the Commissioner under the laws of Canada, except that in providing assistance, the Commissioner shall not use or disclose information collected by or for the Commissioner under this Part; and
- (f) in appropriate circumstances, authorize the collection of personal information about an individual in a manner other than directly from the individual.

Delegation by Commissioner

327 (1) The Commissioner may in writing delegate any of the Commissioner's powers, duties or functions under this Part, including the power to make orders, to an Assistant Commissioner or to an officer or employee of the Commissioner.

Subdelegation by Assistant Commissioner

(2) An Assistant Commissioner may in writing delegate any of the powers, duties or functions delegated to the Assistant Commissioner under subsection (1) to any other officers or employees of the Commissioner, subject to the conditions and restrictions that the Assistant Commissioner specifies in the delegation.

Limitations re personal information

328 (1) The Commissioner and any person acting under the Commissioner's authority may collect, use or retain personal information in the course of carrying out any functions under this Part solely if no other information will serve the purpose of the collection, use or retention of the personal information and in no other circumstances.

Extent of information

(2) The Commissioner and any person acting under the Commissioner's authority shall not in the course of carrying out any functions under this Part collect, use or retain more personal information than is reasonably necessary to enable the Commissioner to perform the Commissioner's functions relating to this Part or for a proceeding under it.

Confidentiality

(3) The Commissioner and any person acting under the Commissioner's authority shall not disclose any information that comes to their knowledge in the course of exercising their functions under this Part unless,

- (a) the disclosure is required for the purpose of exercising those functions;
- (b) the information relates to a service provider, the disclosure is made to a body that is legally entitled to regulate or review the activities of the service provider and the Commissioner or an Assistant Commissioner is of the opinion that the disclosure is justified;
- (c) the Commissioner obtained the information under subsection 320 (12) and the disclosure is required in a prosecution for an offence under section 131 of the *Criminal Code* (Canada) in respect of sworn testimony; or
- (d) the disclosure is made to the Attorney General, the information relates to the commission of an offence against an Act or an Act of Canada and the Commissioner is of the view that there is evidence of such an offence.

Same

(4) Despite anything in subsection (3), the Commissioner and any person acting under the Commissioner's authority shall not disclose the identity of a person, other than a complainant under subsection 316 (1), who has provided information to the Commissioner and who has requested the Commissioner to keep the person's identity confidential, unless the disclosure is necessary to comply with section 125 (duty to report child in need of protection).

Information in review or proceeding

(5) The Commissioner in a review under section 317 or 318 and a court, tribunal or other person, including the Commissioner, in a proceeding mentioned in section 325 or this section shall take every reasonable precaution, including, when appropriate, receiving representations without notice and conducting hearings that are closed to the public, to avoid the disclosure of any information for which a service provider is entitled to refuse a request for access made under section 313.

Not compellable witness

(6) The Commissioner and any person acting under the Commissioner's authority shall not be required to give evidence in a court or in a proceeding of a judicial nature concerning anything coming to their knowledge in the exercise of their functions under this Part that they are prohibited from disclosing under subsection (3) or (4).

Immunity

329 No action or other proceeding for damages may be instituted against the Commissioner or any person acting under the Commissioner's authority for,

- (a) anything done, reported or said in good faith and in the exercise or intended exercise of any of their powers or duties under this Part; or
- (b) any alleged neglect or default in the exercise in good faith of any of their powers or duties under this Part.

PROHIBITIONS, IMMUNITY AND OFFENCES**Non-retaliation**

330 No one shall dismiss, suspend, demote, discipline, harass or otherwise disadvantage a person by reason that,

- (a) the person, acting in good faith and on the basis of reasonable belief, has disclosed to the Commissioner that any other person has contravened or is about to contravene a provision of this Part or the regulations;
- (b) the person, acting in good faith and on the basis of reasonable belief, has done or stated an intention of doing anything that is required to be done in order to avoid having any person contravene a provision of this Part or the regulations;
- (c) the person, acting in good faith and on the basis of reasonable belief, has refused to do or stated an intention of refusing to do anything that is in contravention of a provision of this Part or the regulations; or
- (d) any person believes that the person will do anything described in clause (a), (b) or (c).

Immunity

331 (1) No action or other proceeding for damages may be instituted against a service provider or any other person for,

- (a) anything done, reported or said, in good faith and reasonably in the circumstances, in the exercise or intended exercise of any of their powers or duties under this Part; or

- (b) any alleged neglect or default that was reasonable in the circumstances in the exercise in good faith of any of their powers or duties under this Part.

Crown liability

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) of this section does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Substitute decision-maker

(3) A person who, on behalf of or in the place of an individual, gives, withholds or withdraws consent to a collection, use or disclosure of personal information about the individual, or makes a request, gives an instruction or takes a step is not liable for damages for doing so if the person acts reasonably in the circumstances, in good faith and in accordance with this Part and the regulations.

Reliance on assertion

(4) Unless it is not reasonable to do so in the circumstances, a person is entitled to rely on the accuracy of an assertion made by another person, in connection with a collection, use or disclosure of, or access to, the information under this Part, to the effect that the other person,

- (a) is a person who is authorized to request access to a record of personal information under subsection 313 (1); or
- (b) is a person who is authorized under subsection 301 (1), (2) or (4) to consent to the collection, use or disclosure of personal information about another individual.

Offences

332 (1) A person is guilty of an offence if the person,

- (a) wilfully collects, uses or discloses personal information in contravention of this Part or the regulations made for the purposes of this Part;
- (b) makes a request under this Act, under false pretences, for access to or correction of a record of personal information;
- (c) in connection with the collection, use or disclosure of personal information or access to a record of personal information, makes an assertion, knowing that it is untrue, to the effect that the person,
 - (i) is a person who is authorized to consent to the collection, use or disclosure of personal information about another individual, or
 - (ii) is a person entitled to access to a record of personal information under section 312;
- (d) disposes of a record of personal information in the custody or under the control of a service provider with an intent to evade a request for access to the record that the service provider has received under subsection 313 (1);
- (e) wilfully disposes of a record of personal information in contravention of section 309;
- (f) wilfully fails to comply with clause 308 (2) (a);
- (g) wilfully obstructs the Commissioner or a person known to be acting under the authority of the Commissioner in the performance of their functions in relation to this Part;
- (h) wilfully makes a false statement to mislead or attempt to mislead the Commissioner or a person known to be acting under the authority of the Commissioner in the performance of their functions in relation to this Part;
- (i) wilfully fails to comply with an order made by the Commissioner or a person known to be acting under the authority of the Commissioner in relation to this Part; or
- (j) contravenes section 330.

Penalty

(2) A person who is guilty of an offence under subsection (1) is liable, on conviction, to a fine of not more than \$5,000.

Officers, etc.

(3) If a corporation commits an offence under this Part, every officer, member, employee or agent of the corporation who authorized the offence, or who had the authority to prevent the offence from being committed but knowingly refrained from doing so, is a party to and guilty of the offence and is liable, on conviction, to the penalty for the offence, whether or not the corporation has been prosecuted or convicted.

No prosecution

(4) No person is liable to prosecution for an offence under this or any other Act by reason of complying with a requirement of the Commissioner in relation to this Part.

Consent of Attorney General

(5) A prosecution for an offence under subsection (1) shall not be commenced without the consent of the Attorney General.

Presiding judge

(6) The Crown may, by notice to the clerk of the Ontario Court of Justice, require that a provincial judge preside over a proceeding in respect of an offence under subsection (1).

Protection of information

(7) In a prosecution for an offence under subsection (1) or where documents or materials are filed with a court under sections 158 to 160 of the *Provincial Offences Act* in relation to an investigation into an offence under this Part, the court may, at any time, take precautions to avoid the disclosure by the court or any person of any personal information, including, where appropriate,

- (a) removing the identifying information of any person whose personal information is referred to in any documents or materials;
- (b) receiving representations without notice;
- (c) conducting hearings or parts of hearings in private; or
- (d) sealing all or part of the court files.

No limitation

(8) Section 76 of the *Provincial Offences Act* does not apply to a prosecution under this Part.

PART XI MISCELLANEOUS MATTERS

Child and Family Services Review Board

333 (1) The Child and Family Services Review Board is continued under the name Child and Family Services Review Board in English and Commission de révision des services à l'enfance et à la famille in French.

Composition and duties

(2) The Board is composed of the prescribed number of members appointed by the Lieutenant Governor in Council and has the powers and duties given to it by this Act and the regulations.

Chair and vice-chairs

(3) The Lieutenant Governor in Council may appoint a member of the Board as chair and may appoint one or more other members as vice-chairs.

Quorum

(4) The prescribed number of members of the Board are a quorum.

Remuneration

(5) The chair and vice-chairs and the other members of the Board shall be paid the remuneration determined by the Lieutenant Governor in Council and are entitled to their reasonable and necessary travelling and living expenses while attending meetings or otherwise engaged in the work of the Board.

Police record checks

334 The Lieutenant Governor in Council may, by regulation, require the following persons to provide a police record check concerning the person to any other person or body in accordance with the regulations:

1. A person who provides or receives services under this Act.
2. A person residing, employed or volunteering in premises where services are provided or received under this Act.
3. Such other persons who may be prescribed.

Society may request police record checks from police, etc.

335 A society may, in prescribed circumstances or for a prescribed purpose, ask the Ontario Provincial Police, a municipal police force or a prescribed entity for police record checks or other prescribed information.

Review of Act

336 (1) The Minister shall periodically conduct a review of this Act or those provisions of it specified by the Minister.

Beginning of review

(2) The Minister shall inform the public when a review under this section begins and what provisions of this Act are included in the review.

Consultation with children and young persons

(3) The Minister shall consult with children and young persons when conducting a review under this section.

Written report

(4) The Minister shall prepare a written report, in plain language, respecting the review, including the matters described in sections 337 and 338, and shall make that report available to the public.

Period for review

(5) The first review shall be completed and the report made available to the public within five years after the day this section comes into force.

Subsequent reviews

(6) Each subsequent review shall be completed and the report made available to the public within five years after the day the report on the previous review has been made available to the public.

Review to address rights of children and young persons

337 Every review of this Act shall address the rights of children and young persons in Part II.

Review to address First Nations, Inuit and Métis issues

338 Every review of this Act shall address the following matters:

1. The additional purpose of the Act described in paragraph 6 of subsection 1 (2), with a view to evaluating the progress that has been made in working with First Nations, Inuit and Métis peoples to achieve that purpose.
2. The provisions imposing obligations on societies when providing services to a First Nations, Inuk or Métis person or in respect of First Nations, Inuit or Métis children, with a view to ensuring compliance by societies with those provisions.

PART XII REGULATIONS

General**Lieutenant Governor in Council regulations**

339 (1) The Lieutenant Governor in Council may make regulations for the purposes of this Act,

1. prescribing and governing a dispute resolution mechanism, in accordance with Jordan's Principle, to resolve inter-jurisdictional and intra-jurisdictional disputes in respect of services provided under this Act;
2. prescribing additional services that are services under this Act;
3. prescribing additional powers and duties of Directors and program supervisors;
4. prescribing additional persons and entities who are service providers;
5. governing the use of physical restraint under this Act, including prescribing standards and procedures for its use, requiring service providers to develop policies governing its use and prescribing provisions that must be or may not be included in those policies;
6. governing the use of mechanical restraints under this Act, including prescribing standards and procedures for their use;
7. prescribing and governing an internal procedure by which complaints, other than complaints under section 18 or 119, may be made to service providers, and prescribing and governing an external review by a specified entity of specified classes of such complaints;
8. exempting a service provider, lead agency or service, or any class of them, from any provision or requirement of this Act or the regulations for a specified period or periods;
9. defining any word or expression used in this Act that is not already defined in this Act and further defining any word or expression used in this Act that is already defined in this Act;
10. prescribing or otherwise providing for anything required or permitted by this Act to be prescribed or otherwise provided for in the regulations, including governing anything required or permitted to be done in accordance with the regulations, which is not already provided for in this Part, except as otherwise provided in paragraph 1 of subsection 347 (2);
11. governing transitional matters that may arise due to the enactment of this Act or the repeal of the old Act.

Conflicts

(2) If there is a conflict between a regulation made under paragraph 11 of subsection (1) and any provision of this Act or the regulations, the regulation made under paragraph 11 of subsection (1) prevails.

Minister's regulations

(3) The Minister may make regulations for the purposes of this Act,

1. prescribing performance standards and performance measures for the provision of services to children in care, including prescribing a process for determining what the performance standards and performance measures should be, and implementing the performance standards and performance measures that are prescribed;
2. governing the determination of the bands and First Nations, Inuit or Métis communities with which a First Nations, Inuit or Métis child identifies;
3. governing how service providers, in making decisions in respect of any child, are to take into account the child's race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity and gender expression in order to give effect to the purpose set out in subparagraph 3 iii of subsection 1 (2);
4. governing how service providers, in making decisions in respect of any child, are to take into account the child's cultural and linguistic needs in order to give effect to the purpose set out in subparagraph 3 iv of subsection 1 (2);
5. governing how service providers, in making decisions in respect of any child, are to take into account regional differences in order to give effect to the purpose set out in paragraph 4 of subsection 1 (2);
6. governing how service providers, in the case of a First Nations, Inuit or Métis child, are to take into account the child's cultures, heritages, traditions, connection to community and the concept of the extended family, in order to give effect to the purpose set out in paragraph 6 of subsection 1 (2);
7. prescribing persons who may represent children and their parents in order to assist service providers in taking into account all the characteristics and needs of a child, and all the other factors referred to in subparagraphs 3 iii and iv and paragraphs 4 and 6 of subsection 1 (2) for the purposes set out in those subparagraphs and paragraphs, and respecting how such persons shall be selected or appointed and governing their roles and duties as representatives;
8. prescribing procedures and conditions of eligibility for the admission of children and other persons to and their discharge from places where services are provided;
9. governing the residential placement of children and prescribing procedures for placements, discharge, assessments and case management;
10. requiring that residential placements with or by service providers be made in accordance with written agreements, and prescribing their form and contents;
11. prescribing the qualifications, powers and duties of persons employed in providing services;
12. prescribing classes of persons employed or to be employed in providing services who must undertake training, prescribing that training and prescribing the circumstances under which that training must be undertaken;
13. requiring and prescribing medical and other related or ancillary services for the care and treatment of children and other persons in places where services are provided;
14. permitting notices, orders or other documents that are required under this Act to be provided in writing to be provided in electronic or other form instead, subject to the conditions or restrictions that are specified;
15. governing how notices, orders and other documents or things are to be given or served under this Act, including providing rules for when they are deemed to be received;
16. prescribing forms and providing for their use;
17. modifying any provision or requirement of this Act or the regulations to accommodate persons with disabilities within the meaning of the *Accessibility for Ontarians with Disabilities Act, 2005*.

Regulations: Part II (Children's and Young Persons' Rights)

340 The Lieutenant Governor in Council may make regulations for the purposes of Part II,

1. governing how the rights of children and young persons in this Act are to be respected and promoted by service providers;
2. prescribing intervals for the purpose of section 9;
3. governing internal complaints procedures to be established under section 18;
4. establishing procedures for reviews under section 19;

5. prescribing an alternative dispute resolution method for the purpose of subsection 17 (1) and an alternative dispute resolution process other than the one established by the bands and communities referred to in subsection 17 (2) for the purpose of that subsection.

Regulations: Part III (Funding and Accountability)

Minister's regulations

341 (1) The Minister may make regulations for the purposes of Part III,

1. prescribing entities to whom funding may be provided for the purposes of clause 25 (c);
2. prescribing other purposes for which funding may be provided under clause 25 (c);
3. prescribing the information to be contained in or excluded from a summary of an order made available to the public under clause 33 (4) (b) or 43 (4) (b);
4. prescribing standards of services and procedures and practices to be followed by societies for the purposes of subsection 35 (2);
5. governing the management and operation of societies;
6. prescribing a system for determining the amounts of payments under subsection 40 (1);
7. prescribing terms that shall or may be included in accountability agreements for the purposes of subsection 41 (4);
8. governing the provision of services;
9. governing the accommodation, facilities and equipment to be provided,
 - i. in buildings in which services are provided, and
 - ii. in the course of the provision of services;
10. governing the establishment, management, operation, location, construction, alteration and renovation of buildings in which services are provided;
11. prescribing the accounts and records to be kept by societies, the claims, returns and reports to be made and budgets to be submitted to the Minister and the methods, time and manner in which they shall be made or submitted;
12. requiring service providers to keep records, and prescribing the form and content of those records;
13. providing for the recovery, by an agency or by the Minister, from the person or persons in whose charge a child is or has been or from the estate of that person or persons of amounts paid by the agency for the child's care and maintenance, and prescribing the circumstances and the manner in which such a recovery may be made;
14. providing for the recovery of payments made to societies under Part III and the regulations;
15. governing the construction, alteration, renovation, extension, furnishing and equipping of homes operated or supervised by societies, other than children's residences as defined in Part IX (Residential Licensing), where residential care is provided to children;
16. prescribing reports to be made and information to be provided under section 56, their form and the intervals at which they are to be made or provided;
17. prescribing entities and the reports and information to be provided to them and the manner in which they are to be provided for the purpose of section 57;
18. prescribing information and the manner of making it public for the purpose of section 58;
19. prescribing other persons to whom a program supervisor shall give an inspection report for the purposes of clause 61 (1) (c);
20. prescribing rules to determine whether a child resides within an advisory committee's jurisdiction;
21. prescribing practices, procedures and further duties for advisory committees.

Standards of service, etc.

(2) A regulation made under paragraph 4 of subsection (1),

- (a) may exempt one or more societies from anything that is prescribed under that paragraph;
- (b) may prescribe standards of services that only apply to one or more societies provided for in the regulations;
- (c) may prescribe procedures and practices that are only required to be followed by one or more societies provided for in the regulations.

Amounts of payments to societies

(3) A regulation made under paragraph 6 of subsection (1) is, if it so provides, effective with reference to a period before it is filed.

Lieutenant Governor in Council regulations

(4) The Lieutenant Governor in Council may make regulations for the purposes of Part III,

1. governing the transfer and assignment of assets of service providers and lead agencies for the purposes of section 29;
2. establishing and respecting categories of lead agencies for the purposes of subsection 30 (4);
3. prescribing the functions of each lead agency category for the purposes of subsection 30 (5);
4. prescribing matters about which the Minister may issue directives for the purposes of subsection 32 (2);
5. prescribing other duties of a society for the purposes of clause 35 (1) (g);
6. respecting the composition of boards of directors of societies, including prescribing qualifications or eligibility criteria for board members, and requiring board members to undertake training programs and prescribing those programs;
7. prescribing the number of First Nations, Inuit or Métis representatives on the boards of directors of societies, the manner of their appointment and their terms, for the purpose of subsection 36 (1);
8. prescribing provisions to be included in the by-laws of societies for the purpose of subsection 36 (3);
9. providing for an executive committee of the board of directors of a society, its composition, quorum, powers and duties;
10. prescribing fees that may be charged for services and the conditions under which a fee may be charged;
11. respecting matters that relate to or arise as a result of an amalgamation under section 47 or a Minister's order under section 48, including rules governing court orders made with respect to a society;
12. prescribing grounds for the purposes of subclause 60 (2) (c) (ii).

Restructuring

(5) A regulation made under paragraph 11 of subsection (4) prevails over the *Corporations Act* or regulations made under that Act to the extent of any conflict.

Regulations: Part IV (First Nations, Inuit and Métis Child and Family Services)**Lieutenant Governor in Council regulations**

342 (1) The Lieutenant Governor in Council may make regulations for the purposes of Part IV,

1. modifying or excluding the application of any provision or requirement of this Act or the regulations to a First Nations, Inuit or Métis child and family service authority, a band or First Nations, Inuit or Métis community or specified persons or classes of persons, including persons caring for children under customary care, and providing for other provisions or requirements to apply instead of or in addition to the provisions or requirements of this Act and the regulations.

Minister's regulations

(2) The Minister may make regulations for the purposes of Part IV,

1. governing the process for establishing lists of First Nations, Inuit or Métis communities in a regulation made under subsection 68 (1), including procedures that a community must follow and requirements that a community must meet;
2. prescribing matters requiring consultation between societies, persons or entities and bands or First Nations, Inuit or Métis communities for the purposes of clause 72 (i);
3. governing consultations with bands and First Nations, Inuit or Métis communities under sections 72 and 73 and prescribing the procedures and practices to be followed by societies, persons and entities and the duties of societies, persons and entities during the consultations;
4. prescribing services and powers for the purposes of section 73.

Regulations: Part V (Child Protection)**Lieutenant Governor in Council regulations**

343 (1) The Lieutenant Governor in Council may make regulations for the purposes of Part V,

1. prescribing jurisdictions outside Canada whose court orders may be recognized as extra-provincial child protection orders, and conditions for such recognition;

2. prescribing additional circumstances and conditions that constitute a 16 or 17 year old being in need of protection for the purpose of clause 74 (2) (o);
3. governing the exercise of the powers of entry set out in subsections 81 (6) and (10) and 86 (1) and (2);
4. prescribing methods of alternative dispute resolution for the purpose of section 95;
5. assigning to a Director any powers, duties or obligations of the Crown with respect to children who are in extended society care under an order made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c);
6. prescribing additional criteria for when an assessment may be ordered under section 98, and governing the scope of an assessment and the form of an assessment report under that section;
7. respecting applications for a review by the Board under subsection 109 (8);
8. prescribing additional practices and procedures for the purposes of subsection 109 (11);
9. prescribing the qualifications or experience a member of the Board is required to have in order to conduct reviews under subsection 109 (9), 119 (6) or 120 (5);
10. respecting the making of complaints to a society under subsection 119 (1) or to the Board under subsection 119 (5) or 120 (3);
11. prescribing matters for the purposes of paragraph 2 of subsection 119 (5) and paragraph 6 of subsection 120 (4);
12. prescribing additional orders that may be made by the Board for the purposes of clauses 119 (10) (d) and 120 (7) (f);
13. prescribing practices and procedures for the purposes of hearings conducted by the Board under subsection 119 (8) or during a review of a complaint under section 120;
14. respecting the format of warrants under sections 131 and 132 and the procedures to be followed in applying for, issuing, receiving and filing warrants of different formats;
15. prescribing manners of applying for a warrant under section 132, including a manner other than submitting an information on oath, setting out the circumstances under which those manners may be used and providing for any additional requirements that must be met if those manners are used;
16. respecting the manner in which the register referred to in subsection 133 (5) is to be kept;
17. requiring the removal of a name from the register referred to in subsection 133 (5), or the amendment of the register, under specified circumstances, and specifying those circumstances;
18. prescribing practices and procedures for hearings held under clause 134 (4) (b).

Minister's regulations

- (2) The Minister may make regulations for the purposes of Part V,
1. prescribing requirements and purposes for the purpose of the definition of child protection worker;
 2. respecting the procedures to be followed by a society or a child and family service authority for the purposes of subsection 74 (4);
 3. prescribing additional provisions to be included in a temporary care agreement for the purpose of paragraph 7 of subsection 75 (10);
 4. prescribing the manner of varying a temporary care agreement under subsection 75 (12);
 5. prescribing duties and obligations of societies and rights and responsibilities of children in respect of agreements made under section 77 (agreements with 16 and 17 year olds), including prescribing the services and supports that may be provided under them, prescribing additional circumstances for making such agreements and provisions to be contained in them and governing their variation and termination;
 6. prescribing the complaint review procedure that societies are required to follow for the purpose of subsection 119 (2);
 7. governing agreements entered into under section 124, including prescribing entities required to enter into the agreements, the expiry, renewal and termination of the agreements, the provisions to be included in the agreements, the care and support to be provided to persons under the agreements, the terms and conditions on which the care and support is to be provided and any exceptions to the requirement that an agreement be entered into or that care and support be provided under section 124;
 8. prescribing support services for the purposes of paragraph 3 of subsection 124 (1);
 9. prescribing circumstances and conditions for the purposes of subsection 125 (4);
 10. respecting assessments to be made under subsection 126 (1).

Regulations: Part VI (Youth Justice)

344 The Lieutenant Governor in Council may make regulations for the purposes of Part VI,

1. governing the establishment, operation, maintenance, management and use of places of temporary detention, of open custody and of secure custody;
2. governing the establishment and operation of and the accommodation, equipment and services to be provided in any premises established, operated, maintained or designated for the purposes of the *Youth Criminal Justice Act* (Canada);
3. prescribing additional duties and functions of,
 - i. probation officers, and
 - ii. provincial directors;
4. prescribing the duties and functions of bailiffs;
5. prescribing the qualifications of probation officers;
6. prescribing additional duties and functions of persons in charge of places of temporary detention, of open custody and of secure custody;
7. prescribing reports to be made and information to be furnished under section 147, their form and the intervals at which they are to be made or furnished;
8. governing the conduct, discipline, rights and privileges of young persons in places of temporary detention, of open custody or of secure custody;
9. prescribing procedures for the admission of young persons to and their discharge from places of temporary detention, of open custody or of secure custody or premises in which a service is provided;
10. prescribing the number of members of the Board and the number of members that is a quorum;
11. prescribing additional powers, duties and procedures of the Board;
12. governing the exercise of the power of entry given under subsection 153 (5);
13. governing searches under subsection 155 (1);
14. prescribing procedures for the seizure and disposition of contraband found during a search;
15. respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of Part VI.

Regulations: Part VII (Extraordinary Measures)

345 The Lieutenant Governor in Council may make regulations for the purposes of Part VII,

1. prescribing procedures for the admission of persons to and their discharge from secure treatment programs;
2. prescribing standards for secure treatment programs;
3. governing policies on the use of mechanical restraints required by section 160, including prescribing provisions that must be or may not be included;
4. prescribing standards for secure de-escalation rooms;
5. prescribing procedures to be followed when a child or young person is placed in or released from a secure de-escalation room;
6. prescribing the frequency of reviews under subsection 174 (6);
7. prescribing additional standards and procedures with which a service provider must comply under subsection 174 (9);
8. prescribing matters to be reviewed and prescribing additional reports under section 175;
9. prescribing procedures as intrusive procedures;
10. prescribing drugs, combinations of drugs or classes of drugs as psychotropic drugs.

Regulations: Part VIII (Adoption and Adoption Licensing)

346 (1) The Lieutenant Governor in Council may make regulations for the purposes of Part VIII,

1. designating a person or body to exercise powers and perform duties with respect to adoption;
2. governing the person or body designated under paragraph 1, including prescribing the powers and duties of the person or body;
3. prescribing criteria for the purposes of the definition of “birth parent” in subsection 179 (1);

4. prescribing matters for the purposes of clause 180 (4) (b);
5. prescribing special circumstances for the purposes of subsection 188 (9) (placement outside Canada);
6. governing applications for review under subsection 192 (3);
7. prescribing additional practices and procedures for the purposes of subsection 192 (7);
8. prescribing the qualifications or experience a member of the Board is required to have for the purpose of subsection 192 (8);
9. governing procedures to be followed by a Director in making a review under subsection 193 (3), what types of decisions and directions the Director is authorized to make after conducting a review, and any consequences following as a result of a decision or direction;
10. prescribing an alternative dispute resolution method for the purposes of subsections 198 (8) and 207 (9);
11. governing the placement of children for adoption;
12. prescribing rules and standards governing the placement of children for adoption by licensees;
13. governing openness orders under Part VIII;
14. prescribing persons for the purposes of clause 222 (3) (d);
15. prescribing the powers and duties of a designated custodian under section 223 and governing the fees that the designated custodian may charge in connection with the exercise of its powers and the performance of its duties;
16. governing the disclosure of information under section 224 to a designated custodian;
17. governing the disclosure of information under section 225 by the Minister, a society, a licensee or a designated custodian;
18. establishing and governing a mechanism for the review or appeal of a decision made by the Minister, a society, a licensee or a designated custodian concerning the disclosure of information under section 224 or 225;
19. governing the fees that a society, licensee or designated custodian may charge for the disclosure of information under section 224 or 225;
20. governing the inspection, removal or alteration of information related to an adoption for the purposes of clause 227 (1) (b);
21. exempting a licensee or class of licensees from any or all provisions or requirements of Part VIII or the regulations under it, either indefinitely or for a specified period;
22. governing the issuing, renewal and expiry of licences and prescribing fees payable by an applicant for a licence or its renewal;
23. prescribing grounds for which the issuance of a licence may be refused for the purposes of clause 231 (c);
24. prescribing grounds for which a licence may be revoked or the renewal of a licence may be refused for the purposes of clause 232 (e);
25. prescribing expenses that may be charged under clause 240 (d) and the conditions under which such expenses may be charged.

Functions of Central Authority

(2) In subsection (3),

“Central Authority” means the Central Authority designated under clause 24 (a) of the *Intercountry Adoption Act, 1998*; (“Autorité centrale”)

“Convention” means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, set out in the Schedule to the *Intercountry Adoption Act, 1998*. (“Convention”)

Same

(3) The Lieutenant Governor in Council may make regulations assigning functions of the Central Authority under Part VIII to public authorities, accredited bodies or persons in accordance with Article 22 of the Convention.

Minister’s regulations

(4) The Minister may make regulations for the purposes of Part VIII,

1. prescribing the form of an affidavit of execution for the purposes of subsection 180 (12);
2. prescribing the manner in which placements are to be registered under subsection 183 (7);

3. prescribing persons for the purposes of subclause 188 (3) (b) (ii);
4. prescribing persons and entities and timing requirements for the purposes of clause 238 (b);
5. prescribing the accounts and records to be kept by licensees;
6. requiring licensees and applicants for a licence or renewal of a licence to provide information, returns and reports, and respecting the manner in which the information, returns and reports must be provided;
7. providing for the inspection of the records of licensees;
8. governing the qualifications of persons employed by licensees;
9. requiring licensees to be bonded or to submit letters of credit in the prescribed form and terms and with the prescribed collateral security, prescribing the form, terms and collateral security and providing for the forfeiture of bonds and letters of credit and the disposition of the proceeds.

Regulations: Part IX (Residential Licensing)

Lieutenant Governor in Council regulations

347 (1) The Lieutenant Governor in Council may make regulations for the purposes of Part IX,

1. prescribing other residences for the purposes of paragraph 3 of the definition of “children’s residence” in section 243;
2. prescribing other places for the purposes of paragraph 12 of the definition of “children’s residence” in section 243;
3. prescribing circumstances in which a licence is required to provide residential care for the purposes of subparagraph 2 ii of section 244;
4. prescribing circumstances for the purposes of section 251;
5. prescribing matters about which the Minister may issue directives for the purposes of subsection 252 (1);
6. governing reviews and appeals under section 260;
7. governing the issuance, renewal and expiry of licences and prescribing fees payable by an applicant for a licence or its renewal;
8. prescribing grounds for which the issuance of a licence may be refused for the purposes of clause 261 (f);
9. prescribing grounds for which a licence may be revoked or the renewal of a licence may be refused for the purposes of clause 262 (g);
10. prescribing other powers and duties of an inspector for the purposes of subsection 273 (3);
11. prescribing other powers of an inspector for the purposes of clause 276 (1) (i);
12. prescribing provisions of Part IX or the regulations for the purposes of clause 280 (1) (i);
13. prescribing provisions of Part IX or the regulations for the purposes of clause 280 (3) (c).

Minister’s regulations

(2) The Minister may make regulations for the purposes of Part IX,

1. prescribing or otherwise providing for anything required or permitted by Part IX, except anything referred to in subsection (1) of this section, to be prescribed or otherwise provided for in the regulations, including governing anything required or permitted to be done in accordance with the regulations;
2. specifying and governing classes of licence that may be assigned for the purposes of section 258;
3. governing the amount or method of determining the amount that a licensee may charge for the provision of residential care under the authority of a licence for the purposes of section 268, including governing reviews and variation of the amount or method and circumstances in which a licensee may charge a different amount than the amount that could otherwise be charged;
4. governing the management and operation of, and the accommodation, facilities, equipment and services to be provided in, children’s residences and other places where residential care is provided under the authority of a licence;
5. specifying and governing performance standards and performance measures with respect to the provision of services in children’s residences or other places where residential care is provided under the authority of a licence, including standards with respect to quality of care and responsiveness to cultural needs;
6. prescribing the accounts and records to be kept by licensees;
7. prescribing the qualifications, powers and duties of persons supervising children in children’s residences or other places where residential care is provided under the authority of a licence;

8. prescribing screening measures to be conducted for licensees, applicants for a licence or renewal of a licence and other persons providing residential care to children in children's residences or other places where residential care is provided under the authority of a licence;
9. governing procedures for the admission to and discharge of children from children's residences or other places where residential care is provided under the authority of a licence;
10. requiring licensees and applicants for a licence or renewal of a licence to provide information, returns and reports, and respecting the manner in which the information, returns and reports must be provided.

Regulations: Part X (Personal Information)

348 The Lieutenant Governor in Council may make regulations for the purposes of Part X,

1. prescribing persons for the purpose of paragraph 2 of subsection 283 (2);
2. prescribing other ministers with whom the Minister may share information for the purposes of subsection 283 (5);
3. prescribing requirements and restrictions in relation to research and analysis for the purposes of subsection 283 (7);
4. prescribing and governing methods of giving notice under clauses 283 (8) (b) and 284 (3) (b);
5. prescribing the purposes for the collection under section 284;
6. prescribing purposes related to a society's functions for the purposes of clause 288 (2) (c), subclause 291 (2) (a) (ii) and subsection 292 (3);
7. specifying requirements that an express instruction mentioned in clause 291 (1) (a) must meet;
8. prescribing requirements and restrictions for the purposes of clauses 288 (2) (e), 291 (1) (j) and (k) and 292 (1) (h) and subsections 293 (2) and (3), 302 (10), 304 (1) and (4) and 305 (10);
9. prescribing entities for the purpose of section 293;
10. prescribing information and circumstances for the purposes of subsection 293 (4);
11. prescribing exceptions and additional requirements for the purposes of subsection 293 (9);
12. prescribing a body for the purposes of sections 302, 304 and 305;
13. prescribing information for the purpose of subsection 304 (2);
14. prescribing persons for the purpose of subsection 304 (3);
15. prescribing provisions and prescribing and governing the manner of recording disclosures for the purpose of subsection 306 (3);
16. prescribing exceptions and additional requirements for the purposes of subsection 308 (2);
17. prescribing requirements for the purposes of subsection 308 (3) and clause 309 (1) (b);
18. prescribing circumstances for the purposes of subsection 314 (10) and governing the fees that may be charged in those circumstances;
19. permitting notices, statements or any other things, that under this Part are required to be provided in writing, to be provided in electronic or other form instead, subject to the conditions or restrictions that are specified by the regulations made under this section;
20. requiring service providers to provide information to the Commissioner and specifying the type of information to be provided and the time at which and manner in which it is to be provided.

Regulations: Part XI (Miscellaneous Matters)

349 The Lieutenant Governor in Council may make regulations for the purposes of Part XI,

1. prescribing the number of members of the Board and the number of members that is a quorum;
2. prescribing additional powers, duties and procedures of the Board;
3. respecting police record checks for the purposes of section 334, including,
 - i. requiring different classes of persons to provide different types of police record checks or different types of information as part of a check,
 - ii. prescribing procedures and practices to be followed when a police record check is required,
 - iii. prescribing other persons for the purposes of paragraph 3 of section 334, and
 - iv. requiring police record checks to be obtained from jurisdictions outside Ontario in specified circumstances;
4. respecting police record checks for the purposes of section 335, including,

- i. prescribing other entities from whom a society may request police record checks or other information,
- ii. prescribing other information that may be requested,
- iii. prescribing circumstances in which and purposes for which the request may be made, and
- iv. prescribing procedures and practices to be followed when a police record check or other information is requested.

PART XIII

REPEAL, COMMENCEMENT AND SHORT TITLE

Repeal

350 The *Child and Family Services Act* is repealed.

Commencement

351 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

352 The short title of the Act set out in this Schedule is the *Child, Youth and Family Services Act, 2017*.

SCHEDULE 2 AMENDMENTS TO THE CHILD AND FAMILY SERVICES ACT

1 Clauses 15 (3) (a) and (b) of the *Child and Family Services Act* are repealed and the following substituted:

- (a) investigate allegations or evidence that children may be in need of protection;
- (b) protect children where necessary;

2 (1) Subsection 27 (1) of the Act is repealed and the following substituted:

Consent to service

Consent to service: person 16 or older

(1) Subject to clause (2) (b) and subsection (3), a service provider may provide a service to a person who is 16 years of age or older only with the person's consent, except where the court orders under this Act that the service be provided to the person.

(2) Subsections 27 (2) and (3) of the Act are repealed and the following substituted:

Consent to residential service: child under 16 or in society's care

- (2) A service provider may provide a residential service to a child,
- (a) if the child is less than 16 years of age, with the consent of the child's parent; and
 - (b) if the child is in a society's lawful custody, with the society's consent,
- except where this Act provides otherwise.

Exception — Part IV

(3) Subsections (1) and (2) do not apply where a service is provided to a young person under Part IV (Youth Justice).

(3) Subsection 27 (4) of the Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding the following clause:

- (c) where the placement is made under the authority of an agreement made under subsection 37.1 (1) (agreements with 16 and 17 year olds), in accordance with subsection 37.1 (5) (notice of termination).

3 Subsection 29 (2) of the Act is repealed and the following substituted:

Child's age

(2) No temporary care agreement shall be made in respect of a child who is 12 years of age or older, unless the child is a party to the agreement.

4 (1) The definition of "child" in subsection 37 (1) of the Act is repealed.

(2) Subsection 37 (2) of the Act is amended by striking out "or" at the end of clause (k), by adding "or" at the end of clause (l) and by adding the following clause:

- (m) the child is 16 or 17 years of age and a prescribed circumstance or condition exists.

5 The Act is amended by adding the following section:

Society agreements with 16 and 17 year olds

37.1 (1) The society and a child who is 16 or 17 years of age may make a written agreement for services and supports to be provided for the child where,

- (a) the society has jurisdiction where the child resides;
- (b) the society has determined that the child is or may be in need of protection;
- (c) the society is satisfied that no course of action less disruptive to the child, such as care in the child's own home or with a relative, neighbour or other member of the child's community or extended family, is able to adequately protect the child; and
- (d) the child wants to enter into the agreement.

Same

(2) The society may make a written agreement under subsection (1) where a temporary care agreement in respect of the child is terminated, expires or is about to expire as described in section 33 and is not extended, and may do so before the agreement terminates or expires.

Term of agreement

(3) The agreement may be for a period not exceeding 12 months, but may be renewed if the total term of the agreement, as extended, does not exceed 24 months.

Previous or current involvement with society not a bar to agreement

(4) A child may enter into an agreement under this section regardless of any previous or current involvement with a society, and without regard to any time during which the child has been in a society's care pursuant to an agreement made under section 29 or pursuant to an order made under clause 51 (2) (d), paragraph 2 or 3 of subsection 57 (1) or subsection 65.2 (1).

Notice of termination of agreement

(5) A party to an agreement made under this section may terminate the agreement at any time by giving every other party written notice that the party wishes to terminate the agreement.

Agreement expires at 18

(6) No agreement made under this section shall continue beyond the eighteenth birthday of the person who is its subject.

Current proceedings and orders must be terminated first

(7) Despite subsection (4), an agreement may not come into force under this section until any temporary care agreement under section 29 or order for the care or supervision of a child under this Part is terminated.

Representation by Children's Lawyer

(8) The Children's Lawyer may provide legal representation to the child entering into an agreement under this section if, in the opinion of the Children's Lawyer, such legal representation is appropriate.

6 (1) The English version of subsection 40 (2) of the Act is amended by adding the following clause:

(0.a) the child is less than 16 years old;

(2) The French version of subsection 40 (2) of the Act is revoked and the following substituted:

Mandat d'amener un enfant

(2) Un juge de paix peut décerner un mandat autorisant un préposé à la protection de l'enfance à amener un enfant dans un lieu sûr s'il est convaincu, à la suite d'une dénonciation faite sous serment par un préposé à la protection de l'enfance, qu'il existe des motifs raisonnables et probables de croire ce qui suit :

0.a) l'enfant a moins de 16 ans;

a) l'enfant a besoin de protection;

b) un autre plan d'action moins restrictif n'est pas disponible ou ne protégera pas suffisamment l'enfant.

(3) The English version of subsection 40 (7) of the Act is amended by striking out "and" at the end of clause (a) and by adding the following clause:

(a.1) the child is less than 16 years old; and

(4) The French version of subsection 40 (7) of the Act is revoked and the following substituted:

Appréhension de l'enfant sans mandat

(7) Le préposé à la protection de l'enfance peut, sans mandat, conduire un enfant dans un lieu sûr si, en se fondant sur des motifs raisonnables et probables, il croit ce qui suit :

a) l'enfant a besoin de protection;

a.1) l'enfant a moins de 16 ans;

b) la santé ou la sécurité de l'enfant risqueraient vraisemblablement d'être compromises pendant le laps de temps nécessaire à l'obtention d'une audience en vertu du paragraphe 47 (1) ou d'un mandat en vertu du paragraphe (2).

7 The Act is amended by adding the following section:

Exception, 16 or 17 year old brought to place of safety or apprehended with consent

40.1 (1) A child protection worker may bring a child who is 16 or 17 years old and who is subject to a temporary or final supervision order to a place of safety if the child consents.

Temporary or final supervision order

(2) In this section,

"temporary or final supervision order" means an order under clause 51 (2) (b) or (c), paragraph 1 or 4 of subsection 57 (1), subsection 64 (8) or 65.1 (10) or clause 65.2 (1) (a).

8 Subsection 46 (1) of the Act is amended by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding the following clause:

- (d) an agreement shall be made under section 37.1 (agreements with 16 and 17 year olds).

9 The Act is amended by adding the following section:

Time in place of safety limited, 16 or 17 years old

46.1 As soon as practicable, but in any event within five days after a child who is 16 or 17 years old is brought to a place of safety with the child’s consent under section 40.1,

- (a) the matter shall be brought before a court for a hearing under subsection 47 (1); or
- (b) the child shall be returned to the person entitled to custody of the child under an order made under this Part.

10 Subsection 47 (3) of the Act is repealed.

11 Section 57 of the Act is amended by adding the following subsection:

No order where child not subject to parental control

(10) Where the court finds that a child who was not subject to parental control immediately before intervention under this Part by virtue of having withdrawn from parental control or who withdraws from parental control after intervention under this Part is in need of protection, but is not satisfied that a court order is necessary to protect the child in the future, the court shall make no order in respect of the child.

12 Section 71.1 of the Act is amended by adding the following subsection:

Same

(1.1) A society may provide care and maintenance to a person in accordance with the regulations if,

- (a) the person entered into an agreement with the society under section 37.1 (agreements with 16 and 17 year olds); and
- (b) the agreement expired on the person’s eighteenth birthday.

13 Section 72 of the Act is amended by adding the following subsection:

Duty to report does not apply to older children

(3.1) Subsections (1) and (2) do not apply in respect of a child who is 16 or 17 years old, but a person may make a report under subsection (1) or (2) in respect of a child who is 16 or 17 years old if either a circumstance or condition described in paragraphs 1 to 11 of subsection (1) or a prescribed circumstance or condition exists.

14 (1) Subsection 216 (1) of the Act is amended by adding the following clauses:

- (a.2) prescribing additional circumstances and conditions that constitute a child under 18 years of age being in need of protection for the purpose of clause 37 (2) (m);

- (i) governing transitional matters that may arise due to the amendments to this Act made by Schedule 2 to the *Supporting Children, Youth and Families Act, 2017*.

(2) Section 216 of the Act is amended by adding the following subsection:

Conflicts

(1.1) If there is a conflict between a regulation made under clause (1) (i) and any provision of this Act or the regulations, the regulation made under clause (1) (i) prevails.

(3) Subsection 216 (2) of the Act is amended by adding the following clauses:

- (0.a) prescribing duties and obligations of societies and rights and responsibilities of children in respect of agreements made under section 37.1 (agreements with 16 and 17 year olds), including prescribing the services and supports that may be provided under them, prescribing additional circumstances for making such agreements and provisions to be contained in them and governing their variation and termination;

- (c) prescribing circumstances and conditions for the purposes of subsection 72 (3.1).

15 The Act is amended by adding the following section:

Regulations: defining words or expressions in Act

223.0.1 The Lieutenant Governor in Council may make regulations defining any word or expression used in this Act that is not already defined in this Act and further defining any word or expression used in this Act that is already defined in this Act.

Commencement

16 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 3
AMENDMENTS TO THE CHILD, YOUTH AND FAMILY SERVICES ACT, 2017

1 Paragraph 7 of subsection 46 (5) of the *Child, Youth and Family Services Act, 2017* is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

2 (1) Subsection 47 (3) of the Act is amended by striking out “subsection 113 (2) of the *Corporations Act*” and substituting “subsection 110 (2) of the *Not-for-Profit Corporations Act, 2010*”.

(2) Subsection 47 (4) of the Act is repealed and the following substituted:

Minister approval of articles of amalgamation

(4) The societies shall not file articles of amalgamation under section 112 of the *Not-for-Profit Corporations Act, 2010* until the articles have first received the approval of the Minister.

3 (1) Paragraph 2 of subsection 48 (11) of the Act is amended by striking out “the *Corporations Act* or any letters patent, supplementary letters patent or by-laws” at the end and substituting “the *Not-for-Profit Corporations Act, 2010* or any articles or by-laws”.

(2) Subsection 48 (14) of the Act is repealed and the following substituted:

Minister approval of articles of amalgamation

(14) A society shall not file articles of amalgamation under section 112 of the *Not-for-Profit Corporations Act, 2010* until the articles have first received the approval of the Minister.

4 Section 50 of the Act is repealed and the following substituted:

Conflict with society’s articles or by-laws

50 In the event of a conflict between sections 44 to 49 and a society’s articles or by-laws, sections 44 to 49 prevail.

5 Subsection 87 (2) of the Act is repealed and the following substituted:

Application

(2) This section applies to hearings held under this Part.

6 Subsection 127 (2) of the Act is repealed and the following substituted:

Definition

(2) In this section and section 129,

“to suffer abuse”, when used in reference to a child, means to be in need of protection within the meaning of clause 74 (2) (a), (c), (e), (f), (g) or (j).

7 Sections 133 and 134 of the Act are repealed.

8 (1) Clauses 142 (1) (c) and (d) of the Act are repealed.

(2) Subsection 142 (3) of the Act is amended by striking out “or 134 (11)”.

9 Subsection 206 (1) of the Act is repealed and the following substituted:

Change of name

(1) Subject to subsection (1.1), when the court makes an order under section 199, the court may, at the request of the applicant or applicants,

- (a) change the person’s surname to any surname that the person could have been given if the person had been born in Ontario to the applicant or applicants at the time of the order;
- (b) change the person’s forename;
- (c) change the person’s surname as described in clause (a) and change the person’s forename;
- (d) change the person’s single name to a single name that is determined in accordance with the traditional culture of the person or the applicant or applicants if the Registrar General under the *Vital Statistics Act* approves the single name;
- (e) change the person’s single name to a name with at least one forename and a surname as described in clause (a); or
- (f) change the person’s forename and surname to a single name that is determined in accordance with the traditional culture of the person or the applicant or applicants if the Registrar General under the *Vital Statistics Act* approves the single name.

Same

(1.1) A court shall not make a change described in subsection (1) unless,

- (a) doing so is in the best interests of the child, if the person adopted is a child; and
- (b) the person adopted consents, if the person is 12 or older.

10 Clause (a) of the definition of “non-profit agency” in subsection 229 (7) of the Act is amended by striking out “Part III of the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010* or a predecessor of that Act”.

11 Section 282 of the Act is amended by striking out “and 134 (11)”.

12 Subsection 285 (5) of the Act is repealed and the following substituted:

Exceptions — other matters

(5) Sections 286 to 332 do not apply to,

- (a) records to which subsection 130 (6) or (8) apply; or
- (b) reports for which an order was made under subsection 163 (6).

13 Subsection 341 (5) of the Act is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

14 Paragraphs 16, 17 and 18 of subsection 343 (1) of the Act are repealed.

Commencement

15 (1) Subject to subsection (2), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Sections 1 to 4, 10 and 13 come into force on the first day that section 350 of Schedule 1 to the *Supporting Children, Youth and Families Act, 2017* and subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* are both in force.

SCHEDULE 4 AMENDMENTS TO OTHER ACTS

Assessment Act

1 Paragraph 13 of subsection 3 (1) of the *Assessment Act* is amended by striking out “*Child and Family Services Act*” and substituting “*Child, Youth and Family Services Act, 2017*”.

Broader Public Sector Accountability Act, 2010

2 Clause (d) of the definition of “designated broader public sector organization” in subsection 1 (1) of the *Broader Public Sector Accountability Act, 2010* is repealed and the following substituted:

- (d) every agency designated as a children’s aid society under subsection 34 (1) of Part III of the *Child, Youth and Family Services Act, 2017*,

Child Care and Early Years Act, 2014

3 (1) Subsection 18 (4) of the *Child Care and Early Years Act, 2014* is repealed and the following substituted:

Duty to report under *Child, Youth and Family Services Act, 2017*

(4) Nothing in this section affects the duty to report a suspicion under section 125 of the *Child, Youth and Family Services Act, 2017*.

(2) Subsection 23 (10) of the Act is repealed and the following substituted:

Application of *Child, Youth and Family Services Act, 2017*

(10) Sections 266 and 267 of Part IX of the *Child, Youth and Family Services Act, 2017* apply with necessary modifications to proceedings before the Tribunal, its powers and appeals of its orders.

Children’s Law Reform Act

4 (1) Clause 4 (2) (b) of the *Children’s Law Reform Act* is amended by striking out “section 158 or 159 of the *Child and Family Services Act*” and substituting “section 217 or 218 of the *Child, Youth and Family Services Act, 2017*”.

(2) Clause 21 (2) (b) of the Act is repealed and the following substituted:

- (b) information respecting the person’s current or previous involvement in any family proceedings, including proceedings under Part V of the *Child, Youth and Family Services Act, 2017* (Child protection), or in any criminal proceedings; and

(3) Subsection 21.2 (1) of the Act is repealed and the following substituted:

CAS records search, non-parents

Definition

(1) In this section,

“society” means an agency designated as a children’s aid society under the *Child, Youth and Family Services Act, 2017*.

(4) Subsection 21.2 (9) of the Act is repealed and the following substituted:

Interpretation

(9) Nothing done under this section constitutes publication of information or making information public for the purposes of subsection 87 (8) of the *Child, Youth and Family Services Act, 2017* or an order under clause 70 (1) (b) of this Act.

(5) Subsection 21.3 (6) of the Act is repealed and the following substituted:

Interpretation

(6) Nothing done under this section constitutes publication of information or making information public for the purposes of subsection 87 (8) of the *Child, Youth and Family Services Act, 2017* or an order under clause 70 (1) (b) of this Act.

(6) Subsection 26 (1.1) of the Act is repealed and the following substituted:

Exception

(1.1) Subsection (1) does not apply to an application under this Part that relates to the custody of or access to a child if the child is the subject of an application or order under Part V of the *Child, Youth and Family Services Act, 2017*, unless the application under this Part relates to,

- (a) an order in respect of the child that was made under subsection 102 (1) of the *Child, Youth and Family Services Act, 2017*;
- (b) an order referred to in subsection 102 (3) of the *Child, Youth and Family Services Act, 2017* that was made at the same time as an order under subsection 102 (1) of that Act; or

- (c) an access order in respect of the child under section 104 of the *Child, Youth and Family Services Act, 2017* that was made at the same time as an order under subsection 102 (1) of that Act.

(7) Subsections 28 (2) and (3) of the Act are repealed and the following substituted:

Exception

- (2) If an application is made under section 21 with respect to a child who is the subject of an order made under section 102 of the *Child, Youth and Family Services Act, 2017*, the court shall treat the application as if it were an application to vary an order made under this section.

Same

- (3) If an order for access to a child was made under Part V of the *Child, Youth and Family Services Act, 2017* at the same time as an order for custody of the child was made under section 102 of that Act, the court shall treat an application under section 21 of this Act relating to access to the child as if it were an application to vary an order made under this section.

Christopher's Law (Sex Offender Registry), 2000

5 The definition of "youth custody facility" in subsection 4.1 (5) of *Christopher's Law (Sex Offender Registry), 2000* is repealed and the following substituted:

- "youth custody facility" means a place of open custody or a place of secure custody, as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*. ("lieu de garde")

City of Toronto Act, 2006

6 (1) Clause (a) of the definition of "local board (restricted definition)" in subsection 8 (6) of the *City of Toronto Act, 2006* is repealed and the following substituted:

- (a) a society as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*,

(2) Clause 145 (3) (a) of the Act is repealed and the following substituted:

- (a) a society as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*;

(3) Clause (a) of the definition of "local board (restricted definition)" in section 156 of the Act is repealed and the following substituted:

- (a) a society as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*,

Compensation for Victims of Crime Act

7 The definition of "child" in section 1 of the *Compensation for Victims of Crime Act* is amended by striking out "sections 158 and 159 of the *Child and Family Services Act*" and substituting "sections 217 and 218 of the *Child, Youth and Family Services Act, 2017*".

Coroners Act

8 (1) Clause 10 (2) (b) of the *Coroners Act* is repealed and the following substituted:

- (b) a children's residence under Part IX (Residential Licensing) of the *Child, Youth and Family Services Act, 2017* or premises that had been approved under subsection 9 (1) of Part I (Flexible Services) of the *Child and Family Services Act*, as it read before its repeal;

(2) Subsection 10 (4.8) of the Act is repealed and the following substituted:

Death while restrained in secure treatment program

- (4.8) Where a person dies while being restrained and while committed or admitted to a secure treatment program within the meaning of Part VII of the *Child, Youth and Family Services Act, 2017*, the person in charge of the program shall immediately give notice of the death to a coroner and the coroner shall hold an inquest upon the body.

(3) Section 22.1 of the Act is repealed and the following substituted:

Inquest mandatory

- 22.1 A coroner shall hold an inquest under this Act into the death of a child upon learning that the child died in the circumstances described in clauses 128 (a), (b) and (c) of the *Child, Youth and Family Services Act, 2017*.

Corporations Tax Act

- 9 Clause (i) of the definition of "member of his or her family" in subsection 1 (2) of the *Corporations Tax Act* is amended by striking out "*Child and Family Services Act*" and substituting "*Child, Youth and Family Services Act, 2017*".

Courts of Justice Act

10 (1) Paragraph 1 of the Schedule to section 21.8 of the *Courts of Justice Act* is amended by striking out “*Child and Family Services Act*, Parts III, VI and VII” and substituting “*Child, Youth and Family Services Act, 2017*, Parts V, VII and VIII”.

(2) Subsection 21.12 (1) of the Act is repealed and the following substituted:

Enforcement of orders

(1) A judge presiding over the Family Court shall be deemed to be a judge of the Ontario Court of Justice for the purpose of prosecutions under Part V (Child Protection) and Part VIII (Adoption and Adoption Licensing) of the *Child, Youth and Family Services Act, 2017*, the *Children's Law Reform Act*, the *Family Law Act* and the *Family Responsibility and Support Arrears Enforcement Act, 1996*.

(3) Subsection 38 (2) of the Act is amended by striking out “*Child and Family Services Act*” and substituting “*Child, Youth and Family Services Act, 2017*”.

Crown Employees Collective Bargaining Act, 1993

11 Clause (a) of the definition of “facility” in subsection 7 (5) of the *Crown Employees Collective Bargaining Act, 1993* is repealed and the following substituted:

(a) premises where services are provided by the Minister under the *Child, Youth and Family Services Act, 2017*.

Early Childhood Educators Act, 2007

12 Subsection 32.1 (1) of the *Early Childhood Educators Act, 2007* is repealed and the following substituted:

Complaint, report of child in need of protection, etc.

(1) This section applies with respect to a complaint if the Registrar believes, on reasonable grounds, that the complainant or any other person was likely required to make a report under section 125 of the *Child, Youth and Family Services Act, 2017* in relation to the conduct or actions of the member that are the subject of the complaint.

Education Act

13 (1) Clause 45 (1) (b) of the *Education Act* is repealed and the following substituted:

(b) boards the person in a residence that is not a children's residence as defined in Part IX (Residential Licensing) of the *Child, Youth and Family Services Act, 2017*,

(2) Section 47 of the Act is repealed and the following substituted:

Child subject to society care or supervision**Elementary school**

47 (1) A child who is under the care or supervision of a children's aid society, receives child protection services from a children's aid society or resides in a children's residence or foster home within the meaning of the *Child, Youth and Family Services Act, 2017*, and who is otherwise qualified to be admitted to an elementary school, shall be admitted without the payment of a fee to an elementary school operated by the board of the school section or separate school zone, as the case may be, in which the child resides.

Secondary school

(2) A child who is under the care or supervision of a children's aid society, receives child protection services from a children's aid society or resides in a children's residence or foster home within the meaning of the *Child, Youth and Family Services Act, 2017*, and who is otherwise qualified to be admitted to a secondary school, shall be admitted without the payment of a fee to a secondary school operated by the board of the secondary school district or separate school zone, as the case may be, in which the child resides.

Freedom of Information and Protection of Privacy Act

14 (1) Paragraphs 2, 3 and 4 of subsection 65 (8) of the *Freedom of Information and Protection of Privacy Act* are repealed and the following substituted:

2. Disclosure vetoes registered under section 48.5 of the *Vital Statistics Act*.

3. Information and records in files that are unsealed under section 48.6 of that Act.

(2) Paragraph 2 of subsection 67 (2) of the Act is repealed and the following substituted:

2. Subsections 87 (8), (9) and (10), 98 (9) and (10), 130 (6), 133 (6), 134 (11) and 163 (6) and section 227 of the *Child, Youth and Family Services Act, 2017*.

(3) Paragraph 2 of subsection 67 (2) of the Act is repealed and the following substituted:

2. Subsections 87 (8), (9) and (10), 98 (9) and (10), 130 (6) and 163 (6) and section 227 of the *Child, Youth and Family Services Act, 2017*.

(4) Paragraphs 4, 7 and 7.0.1 of subsection 67 (2) of the Act are repealed and the following substituted:

4. Section 12 of the *Commodity Futures Act*.

7. Subsection 119 (1) of the *Labour Relations Act, 1995*.

7.0.1 Sections 89 and 90 and subsection 92 (6) of the *Legal Aid Services Act, 1998*.

French Language Services Act

15 Clause (e) of the definition of “government agency” in section 1 of the *French Language Services Act* is repealed and the following substituted:

- (e) a service provider as defined in the *Child, Youth and Family Services Act, 2017* or a board as defined in the *District Social Services Administration Boards Act* that is designated as a public service agency by the regulations,

Health Care Consent Act, 1996

16 (1) Subsection 76 (2) of the *Health Care Consent Act, 1996* is amended by striking out “subsections 183 (2) to (6) of the *Child and Family Services Act* (withholding record of mental disorder)” at the end and substituting “subsections 294 (2) to (6) of the *Child, Youth and Family Services Act, 2017* (withholding record of mental disorder)”.

(2) Subsection 81 (3) of the Act is amended by striking out “section 124 of the *Child and Family Services Act*” and substituting “section 171 of the *Child, Youth and Family Services Act, 2017*”.

Health Protection and Promotion Act

17 (1) Clauses (b) and (c) of the definition of “institution” in subsection 21 (1) of the *Health Protection and Promotion Act* are repealed and the following substituted:

- (b) premises that had been approved under subsection 9 (1) of Part I (Flexible Services) of the *Child and Family Services Act*, as it read before its repeal,
- (c) “children’s residence” within the meaning of Part IX (Residential Licensing) of the *Child, Youth and Family Services Act, 2017*.

(2) Clause 39 (2) (e) of the Act is repealed and the following substituted:

- (e) to prevent the reporting of information under section 125 of the *Child, Youth and Family Services Act, 2017* in respect of a child who is or may be in need of protection.

Intercountry Adoption Act, 1998

18 (1) Subsection 1 (1) of the *Intercountry Adoption Act, 1998* is amended by adding the following definition:

“prescribed” means prescribed by the regulations; (“prescrit”)

(2) Section 5 of the Act is amended by adding the following subsection:

Police record check

(3.1) The person who is the subject of the adoption homestudy and such other persons who may be prescribed shall provide a police record check concerning the person to the prescribed person or body in accordance with the regulations.

(3) Section 8.1 of the Act is repealed and the following substituted:

Conditions of licence

8.1 (1) On issuing or renewing a licence or at any other time, a Director may impose on the licence the conditions that the Director considers appropriate.

Amending conditions

(2) A Director may, at any time, amend the conditions imposed on the licence.

Notice

(3) The Director shall notify the licensee in writing of the imposition or amendment of the conditions.

Contents of notice

(4) The notice shall set out the reasons for imposing or amending the conditions and shall state that the licensee is entitled to a hearing by the Tribunal if they request one in accordance with section 12.

Conditions take effect upon notice

(5) The imposition or amendment of conditions takes effect immediately upon the licensee's receipt of the notice and is not stayed by a request for a hearing by the Tribunal.

Licensee must comply

(6) Every licensee shall comply with the conditions to which the licence is subject.

(4) Section 9 of the Act is amended by adding "propose to" before "refuse" in the portion before clause (a).

(5) Section 9 of the Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding the following clause:

(c) a ground exists that is prescribed as a ground for refusing to issue a licence.

(6) Section 10 of the Act is amended by striking out "may refuse to renew or may revoke" in the portion before clause (a) and substituting "may propose to revoke or refuse to renew".

(7) Section 10 of the Act is amended by striking out "or" at the end of clause (c), by adding "or" at the end of clause (d) and by adding the following clause:

(e) a ground exists that is prescribed as a ground for revoking or refusing to renew a licence.

(8) Clause 13 (3) (b) of the Act is repealed and the following substituted:

(b) if the licensee is served with notice that the Director proposes to revoke the licence or refuse to grant the renewal, until the time for requesting a hearing has expired and, if a hearing is requested, until the Tribunal has made its decision.

(9) Subsection 14 (1) of the Act is repealed and the following substituted:

Suspension of licence

(1) A Director may, by causing notice to be served on a licensee, suspend the licence, if in his or her opinion the manner in which intercountry adoptions are being facilitated is an immediate threat to the health, safety or welfare of children.

(10) Subsection 14 (3) of the Act is repealed and the following substituted:

When suspension takes effect

(3) The suspension takes effect on the day the licensee receives the notice and is not stayed by a request for a hearing by the Tribunal.

(11) Section 17 of the Act is repealed and the following substituted:

Inspections by Director

17 (1) For the purpose of determining compliance with this Act and the regulations, a Director or a person who has a Director's written authorization may, at any reasonable time and without a warrant or notice, enter the premises of a licensee in order to conduct an inspection.

Limitation, dwelling

(2) The power to enter and inspect a premises described in subsection (1) shall not be exercised to enter and inspect any room or place actually being used as a dwelling, except with the consent of the occupier.

Identification

(3) A Director or a person who has a Director's written authorization conducting an inspection shall, upon request, produce proper identification.

Application of *Child, Youth and Family Services Act, 2017* provisions

(4) The following provisions of the *Child, Youth and Family Services Act, 2017* apply with necessary modifications in respect of an inspection conducted under this section:

1. Section 276 (powers on inspection).
2. Section 279 (admissibility of certain documents).
3. Section 60 (inspection with a warrant).
4. Subsections 67 (3) to (6) (offences).

(12) Section 18 of the Act is repealed and the following substituted:

Licence and records to be delivered

18 If a licence is revoked or renewal of it refused, or if a licensee ceases to facilitate intercountry adoptions, the licensee shall,

- (a) promptly deliver the licence to a Director or to the Minister; and
 - (b) deliver all the records in the licensee's possession or control that relate to the children to whom services were being provided to a prescribed person or entity within the prescribed time.
- (13) Subsection 20 (1) of the Act is amended by striking out "\$2,000" and substituting "\$5,000".
- (14) Subsection 20 (2) of the Act is amended by striking out "\$1,000" and substituting "\$5,000".
- (15) Subsections 20 (3) and (4) of the Act are amended by striking out "\$2,000" wherever it appears and substituting in each case "\$5,000".
- (16) Section 22 of the Act is repealed and the following substituted:
- Child, Youth and Family Services Act, 2017, s. 227*
- 22 Directors and licensees under this Act are deemed to be licensees for the purposes of section 227 of the *Child, Youth and Family Services Act, 2017* (confidentiality of adoption records).
- (17) Section 24 of the Act is amended by adding the following clauses:
- (e.1) respecting police record checks for the purposes of this Act, including,
 - (i) defining "police record check",
 - (ii) requiring different classes of persons to provide different types of checks or different types of information as part of a check,
 - (iii) prescribing procedures and practices to be followed when a police record check is required,
 - (iv) for the purposes of subsection 5 (3.1), prescribing other persons who may be required to provide a police record check and prescribing persons and bodies to whom police record checks must be provided, and
 - (v) requiring police record checks to be obtained from jurisdictions outside Ontario in specified circumstances;
 - (h.1) prescribing grounds for which the issuance of a licence may be refused for the purposes of clause 9 (c);
 - (h.2) prescribing grounds for which a licence may be revoked or the renewal of it refused for the purposes of clause 10 (e);
 - (h.3) requiring applicants for licences and their renewal to provide police record checks;
 - (j.1) prescribing persons and entities and timing requirements for the purposes of clause 18 (b);
- Jewish Family and Child Service of Metropolitan Toronto Act, 1980*
- 19 (1) The Preamble to the *Jewish Family and Child Service of Metropolitan Toronto Act, 1980* is amended by striking out "the *Child and Family Services Act, 1984*" and substituting "the *Child, Youth and Family Services Act, 2017*".
- (2) Section 1 of the Act is repealed and the following substituted:
- 1 For the purposes of every Act, the Corporation is deemed to be a children's aid society designated under subsection 34 (1) of the *Child, Youth and Family Services Act, 2017* for the territorial jurisdiction in which it operates on the day that subsection comes into force, for all the functions set out in subsection 35 (1) of that Act.
- (3) Section 2 of the Act is repealed and the following substituted:
- 2 Despite section 1, the powers conferred on the Corporation to bring children to a place of safety under section 81 of the *Child, Youth and Family Services Act, 2017* shall be exercised only within the City of Toronto.
- (4) Section 3 of the Act is repealed.
- (5) Section 4 of the Act is amended by striking out "Metropolitan" before "Toronto".
- Long-Term Care Homes Act, 2007*
- 20 Subclause 95 (2) (a) (i) of the *Long-Term Care Homes Act, 2007* is repealed and the following substituted:
- (i) the *Child, Youth and Family Services Act, 2017*,
- Ministry of Community and Social Services Act*
- 21 Subclause 7 (b) (i) of the *Ministry of Community and Social Services Act* is repealed and the following substituted:
- (i) who is in extended society care under Part V of the *Child, Youth and Family Services Act, 2017*, or

Ministry of Correctional Services Act

22 Clause 43 (3) (a) of the *Ministry of Correctional Services Act* is amended by striking out “*Child and Family Services Act*” and substituting “*Child, Youth and Family Services Act, 2017*”.

Municipal Act, 2001

23 (1) Clause (a) of the definition of “local board” in subsection 10 (6) of the *Municipal Act, 2001* is repealed and the following substituted:

(a) a society as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*,

(2) Clause 216 (3) (a) of the Act is repealed and the following substituted:

(a) a society as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*;

(3) Clause (a) of the definition of “local board” in section 223.1 of the Act is repealed and the following substituted:

(a) a society as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*,

Ontario Works Act, 1997

24 Clause 10 (e) of the *Ontario Works Act, 1997* is amended by striking out “*Child and Family Services Act*” and substituting “*Child, Youth and Family Services Act, 2017*”.

Pay Equity Act

25 (1) The Appendix to the Schedule to the *Pay Equity Act* is amended by striking out the heading “Ministry of Community and Social Services” and substituting the following:

Ministry of Community and Social Services

Ministry of Children and Youth Services

(2) Clauses 1 (a), (b), (q), (r) and (t) under the heading set out in subsection (1) of this section are repealed and the following substituted:

(a) operates a children’s residence under the authority of a licence issued under subsection 254 (3) of the *Child, Youth and Family Services Act, 2017*;

(b) provides residential care under the authority of a licence issued under subsection 254 (3) of the *Child, Youth and Family Services Act, 2017* unless the provider is a foster parent;

(q) provides services for young persons under Part VI of the *Child, Youth and Family Services Act, 2017* or under an agreement with the Ministry of Children and Youth Services;

(r) provides children’s services funded or purchased by the Ministry of Children and Youth Services or the Ministry of Community and Social Services under the *Child, Youth and Family Services Act, 2017*;

(t) provides a service funded under or provided under the authority of a licence issued under the *Child, Youth and Family Services Act, 2017*.

(3) Paragraph 2 under the heading set out in subsection (1) of this section is repealed and the following substituted:

2. Societies, as defined in the *Child, Youth and Family Services Act, 2017*.

Pension Benefits Act

26 Paragraph 9 of subsection 1 (5) of the *Pension Benefits Act* is amended by striking out “*Child and Family Services Act*” at the end and substituting “*Child, Youth and Family Services Act, 2017*”.

Perpetuities Act

27 Subsection 17 (2) of the *Perpetuities Act* is repealed and the following substituted:

Definition

(2) For the purposes of subsection (1),

“issue” means issue of a person, whether born within or outside marriage, subject to sections 217 and 218 of the *Child, Youth and Family Services Act, 2017*.

Personal Health Information Protection Act, 2004

28 (1) Subparagraph 2 ii of subsection 23 (1) of the *Personal Health Information Protection Act, 2004* is amended by striking out “*Child and Family Services Act*” at the end and substituting “*Child, Youth and Family Services Act, 2017*”.

(2) Clause 40 (3) (b) of the Act is amended by striking out “under Part IV of the *Child and Family Services Act*” and substituting “under Part VI of the *Child, Youth and Family Services Act, 2017*”.

(3) Clause 43 (1) (e) of the Act is repealed and the following substituted:

- (e) to the Public Guardian and Trustee, the Children’s Lawyer, a children’s aid society, a residential placement advisory committee established under subsection 63 (1) of the *Child, Youth and Family Services Act, 2017* or a designated custodian under section 223 of that Act so that they can carry out their statutory functions;

Police Record Checks Reform Act, 2015

29 (1) Paragraph 8 of subsection 2 (2) of the *Police Record Checks Reform Act, 2015* is repealed and the following substituted:

- 8. A search requested by a children’s aid society for the purpose of performing its functions under subsection 35 (1) of the *Child, Youth and Family Services Act, 2017*.

(2) Item 6 of the Table to section 1 of the Schedule to the Act is amended by striking out “*Child and Family Services Act*” under Column 3 and Column 4 and substituting in each case “*Child, Youth and Family Services Act, 2017*”.

Private Hospitals Act

30 Clause (c) of the definition of “private hospital” in section 1 of the *Private Hospitals Act* is repealed and the following substituted:

- (c) a children’s residence licensed under Part IX (Residential Licensing) of the *Child, Youth and Family Services Act, 2017*.

Provincial Advocate for Children and Youth Act, 2007

31 (1) Clause 1 (a) of the *Provincial Advocate for Children and Youth Act, 2007* is repealed and the following substituted:

- (a) provide an independent voice for children and youth, including First Nations, Inuit and Métis children and youth and children with special needs, by partnering with them to bring issues forward;

(2) The definitions of “child”, “Child and Family Services Review Board”, “children’s aid society service”, “Director”, “residential licensee”, “service” and “youth” in subsection 2 (1) of the Act are repealed and the following substituted:

“child” has the same meaning as in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*; (“enfant”)

“Child and Family Services Review Board” means the Child and Family Services Review Board continued under Part XI of the *Child, Youth and Family Services Act, 2017*; (“Commission de révision des services à l’enfance et à la famille”)

“children’s aid society service” means the functions of a children’s aid society listed in subsection 35 (1) of the *Child, Youth and Family Services Act, 2017*; (“service d’une société d’aide à l’enfance”)

“Director” means the Director appointed under subsection 53 (1) of the *Child, Youth and Family Services Act, 2017*; (“directeur”)

“residential licensee” means the holder of a licence issued under Part IX of the *Child, Youth and Family Services Act, 2017*; (“titulaire de permis d’un foyer”)

“service”, for the purposes of clauses 1 (d) and 15 (2) (b), has the same meaning as in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*, except it does not include a service described in clause (h) of that definition; (“service”)

“youth” means one or more young persons within the meaning of the *Child, Youth and Family Services Act, 2017*; (“jeune”)

(3) Subsection 2 (2) of the Act is amended by striking out “*Child and Family Services Act*” and substituting “*Child, Youth and Family Services Act, 2017*”.

(4) Subsection 3 (3) of the Act is repealed.

(5) Clauses 15 (1) (a) and (c) of the Act are repealed and the following substituted:

- (a) provide advocacy to children and youth who are seeking or receiving services that are provided or funded under the *Child, Youth and Family Services Act, 2017* or provided under the authority of a licence issued under that Act;

- (c) promote the rights under Part II of the *Child, Youth and Family Services Act, 2017* of children in care;

(6) Clause 15 (4) (a) of the Act is amended by striking out “*Child and Family Services Act*” and substituting “*Child, Youth and Family Services Act, 2017*”.

(7) Clauses 16 (1) (f), (g), (j), (m) and (o) of the Act are repealed and the following substituted:

- (f) provide advice and make recommendations to entities, including governments, ministers, agencies and service providers responsible for services,
 - (i) under the *Child, Youth and Family Services Act, 2017*, or
 - (ii) that are provided for in the regulations;
- (g) educate children in care, their families and staff of agencies and service providers about the rights of children in care under Part II of the *Child, Youth and Family Services Act, 2017*;
- (j) provide advocacy to children in care regarding complaints made with respect to rights under Part II of the *Child, Youth and Family Services Act, 2017*;
- (m) meet with children who have undergone emergency admission to a secure treatment program under the *Child, Youth and Family Services Act, 2017* to explain, in language suitable to their understanding, the children's right to a review of the admission;

(o) provide information to children and youth and their families on how to access services described in clause 15 (1) (a);

(8) Paragraphs 3 and 4 of subsection 16.4 (1) of the Act are repealed and the following substituted:

- 3. Matters that are the subject of licensing inspections or reviews of orders made under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) under the *Child, Youth and Family Services Act, 2017* or the subject of inspections or reviews by the Ministry, where the investigation by the Advocate would, in the opinion of the Director, interfere with the inspection or review.
- 4. Matters that are eligible for resolution by a complaints or review process under this Act or the *Child, Youth and Family Services Act, 2017*, other than the reviews referred to in paragraphs 2 and 3, until after the complaints or review process is completed.

(9) Subsection 18.1 (3) of the Act is repealed and the following substituted:

Duty to report under the *Child, Youth and Family Services Act, 2017*

(3) Nothing in this section affects the duty to report a suspicion under section 125 of the *Child, Youth and Family Services Act, 2017*.

(10) Subsection 21.1 (2) of the Act is repealed and the following substituted:

Prohibition: identifying child

(2) Despite paragraph 10 of section 20, the Advocate shall not disclose in an investigative report the name of or any identifying information about the child to whom the investigation relates, and nothing in this section limits the prohibition against identifying a child set out in subsection 87 (8) of the *Child, Youth and Family Services Act, 2017*.

Public Sector Labour Relations Transition Act, 1997

32 The *Public Sector Labour Relations Transition Act, 1997* is amended by adding the following section:

Children's aid societies

8.1 (1) This Act applies upon the amalgamation of two or more children's aid societies.

Predecessor and successor employers

(2) For the purposes of this Act, the children's aid societies that are amalgamated are the predecessor employers and the children's aid society that exists when the amalgamation takes effect is the successor employer.

Changeover date

(3) For the purposes of this Act, the changeover date is the date on which the amalgamation takes effect.

Definition

(4) In this section,

"children's aid society" means a corporation that is a children's aid society under the *Child, Youth and Family Services Act, 2017*.

Residential Tenancies Act, 2006

33 Clause 5 (e) of the *Residential Tenancies Act, 2006* is amended by striking out "*Child and Family Services Act*" at the end and substituting "*Child, Youth and Family Services Act, 2017*".

Substitute Decisions Act, 1992

34 The Schedule to the *Substitute Decisions Act, 1992* is amended by striking out “*Child and Family Services Act*” and substituting “*Child, Youth and Family Services Act, 2017*”.

Vital Statistics Act

35 (1) Clause 10 (2) (b) of the *Vital Statistics Act* is repealed and the following substituted:

(b) every consent required by the *Child, Youth and Family Services Act, 2017* for the child’s adoption has been given or dispensed with; or

(2) Subsection 28 (1) of the Act is amended by striking out “subsection 162 (3) of the *Child and Family Services Act*” and substituting “subsection 222 (3) of the *Child, Youth and Family Services Act, 2017*”.

(3) Subsections 30 (1) and (2) of the Act are amended by striking out “*Child and Family Services Act*” wherever it appears and substituting in each case “*Child, Youth and Family Services Act, 2017*”.

Workplace Safety and Insurance Act, 1997

36 The definitions of “place of secure custody”, “place of secure temporary detention” and “young person” in subsection 14 (1) of the *Workplace Safety and Insurance Act, 1997* are repealed and the following substituted:

“place of secure custody” has the same meaning as in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*; (“lieu de garde en milieu fermé”)

“place of secure temporary detention” has the same meaning as in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*; (“lieu de détention provisoire en milieu fermé”)

“young person” has the same meaning as in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*; (“adolescent”)

Commencement

37 (1) Subject to subsections (2), (3) and (4), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Subsection 4 (1) comes into force on the first day that subsection 1 (1) of the *All Families are Equal Act (Parentage and Related Registrations Statute Law Amendment), 2016* and section 350 of Schedule 1 to the *Supporting Children, Youth and Families Act, 2017* are both in force.

(3) Subsection 29 (1) comes into force on the first day that subsection 2 (2) of the *Police Record Checks Reform Act, 2015* and subsection 35 (1) of Schedule 1 to the *Supporting Children, Youth and Families Act, 2017* are both in force.

(4) Subsection 29 (2) comes into force on the first day that item 6 of the Table to section 1 of the Schedule to the *Police Record Checks Reform Act, 2015* and section 350 of Schedule 1 to the *Supporting Children, Youth and Families Act, 2017* are both in force.

EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 89 and does not form part of the law.
Bill 89 has been enacted as Chapter 14 of the Statutes of Ontario, 2017.*

The Bill is divided into four Schedules.

Schedule 1 repeals the *Child and Family Services Act* and enacts the *Child, Youth and Family Services Act, 2017* in its place.

Schedule 2 amends the *Child and Family Services Act* while it is still in force, that is, before its repeal by Schedule 1.

Schedule 3 amends the new Act, the *Child, Youth and Family Services Act, 2017*.

Schedule 4 contains related and other amendments to 36 other Acts.

SCHEDULE 1 CHILD, YOUTH AND FAMILY SERVICES ACT, 2017

The current Act refers throughout to Indian and native children, and gives certain rights of notice and participation to a representative chosen by the child's band or native community. The new Act refers to First Nations, Inuit and Métis children and young persons, and gives rights of notice and participation to a representative chosen by each of the child's or young person's bands and First Nations, Inuit or Métis communities. All references to a child's or young person's bands and First Nations, Inuit or Métis communities in the new Act include any band of which the child or young person is a member, any band with which the child or young person identifies, any First Nations, Inuit or Métis community that is listed in a regulation and of which the child or young person is a member, and any First Nations, Inuit or Métis community that is listed in a regulation and with which the child or young person identifies.

Significant changes are made to terminology. The terms society ward and Crown ward are no longer used. Instead, the new Act refers to children who are in interim society care or extended society care, respectively. The new Act does not refer to children being abandoned or to runaways. And the new Act speaks of bringing children to a place of safety, instead of being apprehended, and of dealing with matters, not dealing with children.

The new *Child, Youth and Family Services Act, 2017* is, like the current *Child and Family Services Act*, divided into Parts. Following is an explanation of each Part and, in particular, how each differs from the current Act.

Part I Purpose and Interpretation

The paramount purpose of the Act — to promote the best interests, protection and well-being of children — remains unchanged from the current Act.

The additional purposes of the Act are expanded to include the following:

To recognize that services to children and young persons should be provided in a manner that respects regional differences wherever possible and takes into account,

physical, emotional, spiritual, mental and developmental needs and differences among children and young persons;

a child's or young person's race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity and gender expression; and

a child's or young person's cultural and linguistic needs.

To recognize that services to children and young persons and their families should be provided in a manner that builds on the strengths of the families wherever possible.

One of the additional purposes in the current Act is to recognize that services to Indian and native children and families should be provided in a manner that recognizes their culture, heritage and traditions, and the concept of the extended family. This is amended to refer to First Nations, Inuit and Métis children and young persons and families and to their cultures, heritages and traditions and is expanded to also recognize connection to their communities.

There is no longer specific reference to a child's or young person's religion in the additional purposes of the Act. However, a child's or young person's creed is listed as one of several factors to be considered throughout the new Act. "Creed" is defined to include religion.

Part II Children's and Young Persons' Rights

This consolidates the rights of children and young persons found in section 2 and Parts I and V of the current Act.

New provisions are added as follows: restricting service providers and foster parents from using physical restraint on children and young persons except as authorized by the regulations, and from using mechanical restraints on children and young persons except as permitted by Parts VI (Youth Justice) and VII (Extraordinary Measures) and the regulations. The provision in the current Act prohibiting service providers from detaining a child in locked premises except as authorized under the Youth Justice and Extraordinary Measures parts of that Act is maintained; it now expressly applies to foster parents as well as service providers and in respect of young persons as well as children.

In addition, a new statement of rights of children and young persons is added at the outset of the Part, including their right to express their own views freely and safely, to be engaged through honest and respectful dialogue, to have their views given due weight in accordance with their age and maturity and to be informed, in language suitable to their understanding, of their rights and of the existence and role of, and how to contact, the Provincial Advocate for Children and Youth. The procedures in the current Act for making complaints against service providers regarding alleged violations of the rights of children also applies under the new Act to complaints regarding limitations or conditions imposed on visitors and visits. A child or other person may make a complaint as an individual or as part of a group.

Part III Funding and Accountability

This Part replaces Part I of the current Act. There are several additions as follows.

The Minister may designate entities as lead agencies, which must perform the functions assigned to the lead agency's category by the regulations. The Minister may issue binding directives to certain service providers and lead agencies. A program supervisor may issue compliance orders to certain service providers and lead agencies for failure to comply with, among other things, the Act, the regulations or the directives.

The functions of children's aid societies are set out in this Part and remain essentially the same. One change is that societies are now responsible for investigating allegations that a child is in need of protection and for protecting children in their care, for all children up to the age of 18; in the current Act, these responsibilities are limited to children younger than 16 and to 16 and 17 year olds who are subject to protection orders.

This Part now includes a requirement that every society enter into an accountability agreement with the Minister as a condition of receiving funding; this is currently a requirement in the regulations under the Act, and is being made a statutory requirement in the new Act.

The Minister may issue binding directives to societies. A Director may issue compliance orders to societies for failure to comply with, among other things, the Act, the regulations, an accountability agreement or the directives.

If a society fails to comply with a compliance order, or if the Minister considers it to be in the public interest, the Minister may make a variety of different orders, including ordering a society to take corrective action, suspending, amending or revoking the society's designation, appointing or replacing members of the society's board of directors, designating or replacing a chair of the board, or appointing a supervisor to operate and manage the society. Unless certain conditions exist, the Minister must notify the society of the intention to make such an order, and the society has a right to make a written response.

This Part sets out rules for two or more societies that are proposing to amalgamate and to continue as one society. The Minister may order that a society amalgamate with one or more other societies, or undertake other types of restructuring, if the Minister considers it to be in the public interest. The Minister must notify the society of the intention to make such an order and the society has a right to make a written response to the directions contained in the order, but not to the requirement to amalgamate. In certain circumstances, the Minister may also appoint a supervisor to implement or facilitate the implementation of such an order. A society that receives notice of a proposed order to amalgamate or otherwise restructure must give a copy of the notice to affected employees and their bargaining agents, and on receipt of a final order to amalgamate or otherwise restructure, the society must give notice of the order to affected employees and their bargaining agents and other persons or entities whose contracts are affected by the order, and must make the order available to the public.

The rules for allowing a program supervisor to enter and inspect certain premises to determine compliance with the Act and the regulations are expanded. This Part now sets out rules for such inspections without and with a warrant.

Provisions governing residential placement advisory committees have been moved from Part II (Voluntary Access to Services) in the current Act to this Part in the new Act with the following changes: the current Act lists persons to be included in the committees, while the new Act provides that the committees may include the listed persons; the new Act requires the committees to report to the Minister on their activities annually and on request; the right to object to a residential placement and to ask the Child and Family Services Review Board to review a committee's decision in respect of a residential placement is no longer limited to children 12 or older.

Part IV First Nations, Inuit and Métis Child and Family Services

This Part replaces Part X of the current Act.

Under the current Act, the Minister may designate native communities for the purposes of the Act. Under this Part, the Minister may make regulations establishing lists of First Nations, Inuit and Métis communities for the purposes of the Act, with the consent of the community's representatives.

Another change is that, under the current Act, a band or native community may designate a body as an Indian or native child and family service authority. Under this Part, a band or First Nations, Inuit or Métis community may designate a body as a First Nations, Inuit or Métis child and family service authority.

Part V Child Protection

This Part replaces Part III of the current Act with the following changes.

The age of protection is increased to include 16 and 17 year olds. Under the new Act, 16 and 17 year olds may be found to be in need of protection and additional circumstances or conditions applicable only to 16 and 17 year olds may be prescribed to make that determination. However, 16 and 17 year olds may not be brought to a place of safety without their consent. Societies are newly authorized to enter into agreements with 16 and 17 year olds in need of protection and to bring applications to court.

The matters to be considered in determining the best interests of a child are changed. The child's views and wishes, given due weight in accordance with the child's age and maturity, unless they cannot be ascertained, and in the case of a First Nations, Inuit or Métis child, the importance of preserving the child's cultural identity and connection to community must be taken into consideration. In addition, any other circumstances that are considered relevant, including a list of 11 circumstances similar to those listed in the current Act, are to be considered. Differences include: the current Act includes the child's cultural background in this list while the new Act includes the child's cultural and linguistic heritage; the current Act includes the religious faith in which the child is being raised while the new Act includes the child's race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity and gender expression.

The authority for societies to enter into voluntary agreements with persons unable to temporarily care for their children and with young persons is moved from Part II (Voluntary Access to Services) of the current Act to Part V of the new Act. Temporary care agreements may be entered into with respect to children of any age and are no longer restricted to children younger than 16. The authority to enter into special needs agreements is not included in the new Act.

Under the current Act, persons older than 18 may receive extended care and maintenance from a society if they were subject to a custody order or Crown wardship order that expired on their turning 18 or marrying, if they were eligible to receive support services as a 16 or 17 year old, whether or not they actually received those services or, in the case of Indian or native persons, if they were cared for under customary care immediately before their 18th birthday. The comparable section under the new Act makes the provision of continued care and support mandatory in the circumstances listed in the current Act, adds an additional circumstance when it is to be provided, i.e., when a person entered into an agreement with the society as a 16 or 17 year old and the agreement expires on the person's 18th birthday, and uses the updated terminology of First Nations, Inuit and Métis people and of children who are in extended society care.

Societies are required to make all reasonable efforts to pursue a plan for customary care for a First Nations, Inuit or Métis child if the child is in need of protection, cannot remain in the care of or be returned to the person who had charge of the child immediately before intervention by the society or the person entitled to custody of the child and is a member of or identifies with a band or a First Nations, Inuit or Métis community. Customary care is defined as the care and supervision of a First Nations, Inuit or Métis child by a person who is not the child's parent, according to the custom of the child's band or First Nations, Inuit or Métis community.

An equivalent to section 86 of the current Act, which prohibits Roman Catholic children from being placed in the care of a Protestant society, institution or family and Protestant children from being placed with a Roman Catholic society, institution or family, is not included in the new Act. Instead, a society is to choose a residential placement that, where possible, respects the child's race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, creed, sex, sexual orientation, gender identity, gender expression and cultural and linguistic heritage. In the case of a First Nations, Inuit or Métis child, priority is to be given to placing the child with a First Nations, Inuit or Métis family, respectively.

The duty that all persons have to report suspicions that a child is in need of protection applies only in respect of children younger than 16. However, a person may make a report in respect of a child who is 16 or 17.

Part VI Youth Justice

This Part incorporates Part IV of the current Act with the following changes.

This Part adds that a person in charge of a place of open custody, of secure custody or of temporary detention may authorize certain types of searches in accordance with the regulations, and provides that any contraband found during a search may be seized and disposed of in accordance with the regulations.

This Part also places limits on the use of mechanical restraints in places of secure custody or of secure temporary detention.

Part VII Extraordinary Measures

This Part replaces Part VI of the current Act, with the following changes.

A section is added setting out limits on the use of mechanical restraints in secure treatment programs.

The current Act allows children and young persons to be placed in secure isolation rooms; in the new Act, this is changed to allow for placing children and young persons in secure de-escalation rooms.

Under the current Act, service providers are required to comply with standards prescribed by regulation respecting the period of time a young person 16 or older who is in a place of secure custody or secure temporary detention may spend in a secure isolation room and regarding the observation of the young person. In the new Act, the time periods and observation standards for those young persons who are placed in secure de-escalation rooms are set out in the Act itself.

Part VIII Adoption and Adoption Licensing

This Part builds on Part VII of the current Act.

The matters to be considered in determining the best interests of a child are changed. The changes are the same as those described above under Part V Child Protection.

A new two stage process is added for a licensee to bring a child who is not a resident of Canada into Ontario to be placed for adoption. First, the licensee must obtain a Director's approval of the person with whom the child is to be placed as eligible and suitable to adopt based on a homestudy. Second, the licensee must obtain a Director's approval of the proposed placement.

The current Act provides an exception to certain requirements if a child is placed for adoption with the child's relative, the child's parent or a spouse of the child's parent. In the new Act, the exception is limited to circumstances in which the child is a resident of Canada and the placement is within Ontario. The current Act also provides an exception to the same requirements if a child is sent out of Ontario for adoption by the child's relative, the child's parent or a spouse of the child's parent. In the new Act, the exception is now limited to circumstances in which the placement is within Canada.

There is a new requirement on societies that begin planning for the adoption of a First Nations, Inuk or Métis child to consider the importance of developing or maintaining the child's connection to the child's bands and First Nations, Inuit or Métis communities.

The ability of a court to make an openness order in respect of a child for the purposes of facilitating communication or maintaining a relationship between the child and certain persons remains. A new type of openness order is added where a society intends to place a First Nations, Inuk or Métis child who is in extended society care for adoption. In such circumstances, the child, the society, or a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities may apply for an openness order. The court may make this type of openness order if it is satisfied that the order is in the child's best interests, that the order would help the child to develop or maintain a connection with the child's First Nations, Inuit or Métis cultures, heritages and traditions and to preserve the child's cultural identity and connection to community and, if the child is 12 or older, if the child consents.

In the various provisions regarding applications for and proceedings with respect to openness orders, the method of giving notice to a child requires that notice must be given to the Children's Lawyer, the child's lawyer, if any, and the child if the child is 12 or older. The child is entitled to participate in the proceeding as if they were a party.

There is a new requirement on societies to make all reasonable efforts to assist a child to maintain relationships with persons that are beneficial and meaningful to the child where the child was placed for adoption but the society decides not to finalize the adoption or where a child returns to the care of a society after an adoption order was made.

The adoption licensing rules that were in Part IX of the old Act are now in this Part and remain substantially the same.

Part IX Residential Licensing

This Part replaces Part IX of the current Act. Current Part IX addresses both residential licensing and adoption licensing. Under the new Act, adoption licensing has been moved into Part VIII.

As under the current Act, a licence is required to operate a children's residence or to provide residential care in specified circumstances. This Part now provides for regulations to prescribe any other residence as a children's residence.

Other additions to this Part include the following. The Minister may issue binding directives to licensees. The Minister may publish certain information with respect to licences and applications for licences. Licences are to be issued or renewed for a specified term. A Director may assign a class to a licence. On issuing or renewing a licence, a Director may include the maximum number of children for whom residential care may be provided by the licensee. A licensee must charge the amount set out in or determined in accordance with the regulations for the provision of residential care, unless the regulations exempt the licensee.

The rules respecting the right to request a hearing by the Licence Appeal Tribunal, and to appeal the Tribunal's findings, remain essentially unchanged.

The powers of a program supervisor to conduct residential licensing inspections under the current Act are replaced by powers of an inspector to conduct such inspections for the purposes of determining compliance with the Act, the regulations and the directives. This Part now sets out rules for such inspections without and with a warrant.

Part X Personal Information

This Part replaces the very limited Part VIII in the current Act, and is essentially a new Part. It is modelled on provisions in the *Personal Health Information Protection Act, 2004*.

This Part sets out extensive rules for the following: the collection, use and disclosure of personal information by the Minister and by service providers; the determination of whether an individual has the capacity to give, withhold or withdraw consent to the collection, use or disclosure of their personal information; the authorization of a substitute decision-maker to give, withhold or withdraw consent on behalf of an individual; the maintenance and protection of personal information by service providers; individuals' rights of access to service providers' records containing their personal information and to require service providers to correct that information; individuals' rights to make a complaint to the Information and Privacy Commissioner in respect of any contraventions of this Part; the Information and Privacy Commissioner's powers and duties under this Part.

Part XI Miscellaneous Matters

This Part incorporates Part XII of the current Act with the following changes.

New in this Part is the authority of the Lieutenant Governor in Council to require, by regulation, certain persons, including those who provide or receive services under the Act, to provide police record checks to another person or body. Also, a society may, in the prescribed circumstances or for a prescribed purpose, ask the police for police record checks or other prescribed information.

Under the current Act, the Minister must periodically conduct a review of the Act or of those provisions specified by the Minister; the review must include a review of provisions imposing obligations on societies when providing services to an Indian or native person. In Part XI of the new Act, the review must address the following matters: the rights of children and young persons; the provisions imposing obligations on societies when providing services to a First Nations, Inuk or Métis person; and the additional purpose of the Act related to First Nations, Inuit and Métis peoples, with a view to evaluating the progress that has been made to achieve that purpose. It also requires the Minister to consult with children and young persons when conducting a review.

Part XII Regulations

As in the current Act, the power to make regulations for each Part of the Act is set out in its own section. In addition, section 339 authorizes the Lieutenant Governor in Council and the Minister to make regulations for the purposes of the Act as a whole, including regulations to govern transitional matters that may arise from the enactment of the new Act and the repeal of the current Act.

SCHEDULE 2 AMENDMENTS TO THE CHILD AND FAMILY SERVICES ACT

This Schedule amends the current *Child and Family Services Act* as follows.

It anticipates the increase in the age of protection from 16 to 18 that is in the new Act in Schedule 1 in the following amendments: clauses 15 (3) (a) and (b) of the Act are re-enacted so that societies' functions to investigate allegations that a child may be in need of protection and to protect children in their care are no longer restricted to children younger than 16 or already subject to a protection order; section 27 of the Act is amended to specify that a service provider requires a court order or the consent of a person who is 16 or older before providing the person with a service; subsection 29 (2) of the Act is re-enacted to allow temporary care agreements to be entered into in respect of children who are 16 or older; the definition of "child" in subsection 37 (1) of the Act, which excludes children who are apparently or actually 16 or older for the purposes of Part III (Child Protection), is repealed, so that child in

Part III means a person younger than 18; subsection 37 (2) of the Act is amended to provide that regulations may be made setting out additional circumstances or conditions under which a 16 or 17 year old may be found to be in need of protection; section 40 is amended and new sections 40.1 and 46.1 provide that a society may bring a 16 or 17 year old who is subject to a supervision order to a place of safety only with their consent and the society must, as soon as possible and at the latest within five days of bringing the 16 or 17 year old to a place of safety, bring the matter to court or return the child to the person entitled to custody.

New section 37.1 authorizes 16 and 17 year olds to enter into agreements with societies for the provision of services and supports to them where the society determines that they are or may be in need of protection and is satisfied that no less disruptive course of action is available and the child wants to enter into the agreement.

Section 57 of the Act is amended to provide that a court shall make no order under that section in respect of a child who withdrew from parental control before or after intervention under Part III, where the court is not satisfied that a court order is necessary to protect the child in the future even though the child is found to be in need of protection.

Section 71.1 of the Act is amended to allow a person 18 or older to receive care and maintenance from a society if the person entered into an agreement for services from the society as a 16 or 17 year old and that agreement expired on the person's 18th birthday.

The duty under section 72 to report suspicions that a child is in need of protection is amended to allow, though not require, such reports in respect of children who are 16 or 17.

All the amendments discussed above anticipate provisions in the new Act. However, these amendments to the current Act are intended to come into force before the new Act does.

SCHEDULE 3 AMENDMENTS TO THE CHILD, YOUTH AND FAMILY SERVICES ACT, 2017

This Schedule amends the new *Child, Youth and Family Services Act, 2017* as follows.

Sections 133 and 134 of the Act, which provide for the maintenance of a child abuse register, are repealed. Consequential amendments are made to other sections to delete all references to sections 133 and 134.

Subsection 206 (1) of the Act allows a court to change an adopted person's surname or given name. This is re-enacted to permit the court to change an adopted person's surname, forename, both surname and forename or single name. The court may also change the person's single name to a name with at least one forename and surname or the person's forename and surname to a single name. Single names are to be determined in accordance with the traditional culture of the adopted person or the applicant or applicants.

References to the *Corporations Act* are replaced with references to the as yet unproclaimed *Not-for-Profit Corporations Act, 2010*.

SCHEDULE 4 AMENDMENTS TO OTHER ACTS

This Schedule contains amendments to 36 other Acts, most of which are consequential to the repeal of the *Child and Family Services Act* and the enactment of the *Child, Youth and Family Services Act, 2017*. Most of these amendments simply update references to the current Act and terminology from the current Act to refer to the new Act and the new terminology.

A few Acts are amended more extensively as follows.

The *Intercountry Adoption Act, 1998* is amended to bring that Act into closer alliance with the adoption and adoption licensing requirements of the *Child, Youth and Family Services Act, 2017*. In particular, amendments are made to require police record checks, to give the Director under that Act additional authority to refuse to issue or renew or to revoke a licence to facilitate intercountry adoptions, to clarify the inspection powers with respect to licensees and to amend the penalty provisions.

The *Jewish Family and Child Service of Metropolitan Toronto Act, 1980* is amended to provide that the society established under that Act is deemed to be a children's aid society designated under the *Child, Youth and Family Services Act, 2017* and that it may only exercise its powers to bring children to a place of safety within the City of Toronto. The governance provisions in the special Act are repealed, leaving the society subject to the governance provisions in the *Child, Youth and Family Services Act, 2017*.

The *Public Sector Labour Relations Transition Act, 1997* is amended to apply automatically upon the amalgamation of two or more children's aid societies.

The only amendments in this Schedule that are unrelated to the repeal of the *Child and Family Services Act* and the enactment of the *Child, Youth and Family Services Act, 2017* are to the *Freedom of Information and Protection of Privacy Act*. Subsections 65 (8) and 67 (2) of that Act are amended to correct references to other Acts.

CHAPITRE 14

Loi édictant la Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille, modifiant et abrogeant la Loi sur les services à l'enfance et à la famille et apportant des modifications connexes à d'autres lois

Sanctionnée le 1^{er} juin 2017

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2.	Entrée en vigueur
3.	Titre abrégé
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Annexe 3	Modifications de la Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille
Annexe 4	Modifications d'autres lois

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Contenu de la présente loi

1 La présente loi est constituée du présent article, des articles 2 et 3 et de ses annexes.

Entrée en vigueur

2 (1) Sous réserve des paragraphes (2) et (3), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.

(2) Les annexes de la présente loi entrent en vigueur comme le prévoit chacune d'elles.

(3) Si une annexe de la présente loi prévoit que l'une ou l'autre de ses dispositions entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation, la proclamation peut s'appliquer à une ou à plusieurs d'entre elles. En outre, des proclamations peuvent être prises à des dates différentes en ce qui concerne n'importe lesquelles de ces dispositions.

Titre abrégé

3 Le titre abrégé de la présente loi est *Loi de 2017 sur le soutien à l'enfance, à la jeunesse et à la famille*.

ANNEXE 1

LOI DE 2017 SUR LES SERVICES À L'ENFANCE, À LA JEUNESSE ET À LA FAMILLE

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Préambule

Le gouvernement de l'Ontario reconnaît que les enfants sont des personnes dont les droits doivent être respectés et la voix entendue.

Le gouvernement de l'Ontario est déterminé à respecter les principes suivants :

Les services fournis aux enfants et aux familles doivent être axés sur les enfants.

Les enfants et les familles obtiennent de meilleurs résultats lorsque les services tirent profit de leurs forces. Les services de prévention, les services d'intervention précoce et les services de soutien communautaire misent sur les forces des familles et s'avèrent des outils inestimables pour ce qui est de réduire le recours à des services et à des mesures d'intervention plus perturbateurs.

Les services fournis aux enfants et aux familles doivent respecter leur diversité et le principe d'inclusion, conformément au *Code des droits de la personne* et à la *Charte canadienne des droits et libertés*.

Il faut continuer de lutter contre le racisme systémique et d'éliminer les obstacles qu'il crée pour les enfants et les familles bénéficiant de services. Tous les enfants doivent avoir la possibilité de réaliser leur plein potentiel. La sensibilisation aux préjugés et au racisme systémiques et la nécessité d'éliminer ces obstacles doivent orienter les modes de prestation de l'ensemble des services aux enfants et aux familles.

Les services aux enfants et aux familles doivent, dans la mesure du possible, les aider à entretenir des liens avec la collectivité.

Se fondant sur ces principes, le gouvernement de l'Ontario reconnaît que la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* a pour objectif d'être compatible avec les principes énoncés dans la Convention des Nations Unies relative aux droits de l'enfant et de s'en inspirer.

En ce qui concerne les enfants inuits, métis et de Premières Nations, le gouvernement de l'Ontario reconnaît ce qui suit :

La province de l'Ontario entretient des relations uniques et dynamiques avec les Premières Nations, les Inuits et les Métis.

Les Premières Nations, les Inuits et les Métis sont reconnus dans la Constitution du Canada. Ils ont leurs propres lois et entretiennent des liens culturels, politiques et historiques particuliers avec la province de l'Ontario.

Lorsqu'un enfant inuit, métis ou de Premières Nations a normalement droit à un service sous le régime de la présente loi, les conflits de compétence ne doivent pas nuire à la prestation de ce service en temps opportun, conformément au principe de Jordan.

La Déclaration des Nations Unies sur les droits des peuples autochtones reconnaît l'importance du droit d'appartenir à une communauté ou à une nation, conformément aux traditions et coutumes de la communauté ou de la nation considérée.

De plus, le gouvernement de l'Ontario croit ce qui suit :

Les enfants inuits, métis et de Premières Nations devraient être heureux, en santé et résilients. Ils devraient être enracinés dans leur culture et leur langue, et s'épanouir en tant que personnes et en tant que membres de leurs familles, de leurs communautés et de leurs nations.

Il est essentiel de respecter les liens qui unissent les enfants inuits, métis et de Premières Nations à leurs communautés politiques et culturelles particulières afin, d'une part, de les aider à s'épanouir et, d'autre part, de favoriser leur bien-être.

Pour ces motifs, le gouvernement de l'Ontario s'engage, dans un esprit de réconciliation, à collaborer avec les Premières Nations, les Inuits et les Métis pour veiller à ce que, dans la mesure du possible, ils puissent s'occuper de leurs enfants conformément à leur culture, leurs traditions et leur patrimoine particuliers.

PARTIE I OBJETS ET INTERPRÉTATION

OBJETS

Objet primordial et autres objets

Objet primordial

1 (1) L'objet primordial de la présente loi est de promouvoir l'intérêt véritable de l'enfant, sa protection et son bien-être.

Autres objets

(2) Dans la mesure où ils sont compatibles avec l'intérêt véritable de l'enfant, sa protection et son bien-être, les objets supplémentaires de la présente loi consistent à reconnaître ce qui suit :

1. Même si les parents peuvent avoir besoin d'aide pour s'occuper de leurs enfants, cette aide devrait favoriser l'autonomie et l'intégrité de la cellule familiale et, dans la mesure du possible, être fournie par consentement mutuel.
2. Le plan d'action le moins perturbateur qui est disponible et qui convient dans un cas particulier pour aider un enfant, y compris la prestation de services de prévention, de services d'intervention précoce et de services de soutien communautaire, devrait être envisagé.
3. Les services fournis aux enfants et aux adolescents devraient l'être d'une manière qui, à la fois :
 - i. respecte les besoins de l'enfant ou de l'adolescent en matière de continuité de soins et de relations stables au sein d'une famille et d'un environnement culturel,
 - ii. tient compte des besoins des enfants et des adolescents sur les plans physique, affectif, spirituel et mental et sur le plan du développement ainsi que des différences qui existent entre eux,
 - iii. tient compte de la race de l'enfant ou de l'adolescent, de son ascendance, de son lieu d'origine, de sa couleur, de son origine ethnique, de sa citoyenneté, de la diversité de sa famille, de son handicap, de sa croyance, de son sexe, de son orientation sexuelle, de son identité sexuelle et de l'expression de son identité sexuelle,
 - iv. tient compte des besoins de l'enfant ou de l'adolescent sur les plans culturel et linguistique,
 - v. prévoit une évaluation, une planification et une prise de décision précoces, en vue d'arriver à l'élaboration de plans permanents pour les enfants et les adolescents conformes à leur intérêt véritable,
 - vi. inclut la participation de l'enfant ou de l'adolescent, de ses parents, des membres de sa parenté et de sa famille élargie, et de la communauté à laquelle il appartient, si cela est approprié.
4. Les services fournis aux enfants, aux adolescents et à leur famille devraient l'être d'une manière qui respecte les différences régionales, dans la mesure du possible.
5. Les services fournis aux enfants, aux adolescents et à leur famille devraient l'être d'une manière qui tire parti des forces de la famille, dans la mesure du possible.
6. Les Premières Nations, les Inuits et les Métis devraient avoir le droit de fournir, dans la mesure du possible, leurs propres services à l'enfance et à la famille et tous les services fournis aux enfants et aux adolescents inuits, métis et de Premières Nations et à leur famille devraient l'être d'une manière qui tient compte de leur culture, de leur patrimoine, de leurs traditions, des liens qui les unissent à leurs communautés et du concept de la famille élargie.
7. La communication appropriée de renseignements, notamment de renseignements personnels, en vue d'assurer la planification et la prestation de services est essentielle à l'obtention de résultats positifs pour les enfants et les familles.

INTERPRÉTATION

Interprétation

Définitions

2 (1) Les définitions qui suivent s'appliquent à la présente loi.

«adolescent» S'entend :

- a) de toute personne qui, étant âgée d'au moins 12 ans, n'a pas atteint l'âge de 18 ans ou qui, en l'absence de preuve contraire, paraît avoir un âge compris entre ces limites et qui est accusée ou déclarée coupable d'une infraction à la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou à la *Loi sur les infractions provinciales*;

- b) pour les besoins du contexte, de toute personne qui, sous le régime de la *Loi sur le système de justice pénale pour les adolescents* (Canada), est soit accusée d'avoir commis une infraction durant son adolescence, soit déclarée coupable d'une infraction à cette loi. («young person»)
- «agence» Personne morale. («agency»)
- «ancienne loi» La *Loi sur les services à l'enfance et à la famille*. («old Act»)
- «arrêté, ordre et ordonnance» S'entendent en outre du refus de prendre un arrêté, de donner un ordre ou de rendre une ordonnance. («order»)
- «bande» S'entend au sens de la *Loi sur les Indiens* (Canada). («band»)
- «Commission» La Commission de révision des services à l'enfance et à la famille prorogée en application de l'article 333. («Board»)
- «communauté inuite, métisse ou de Premières Nations» Communauté que le ministre a énumérée dans un règlement pris en vertu de l'article 68. («First Nations, Inuit or Métis community»)
- «contention physique» Technique d'immobilisation servant à restreindre la capacité d'une personne de bouger librement. Il est toutefois entendu que ce terme ne s'entend pas de ce qui suit :
- a) la restriction des mouvements, la réorientation physique ou l'incitation physique, si ces gestes sont brefs et faits en douceur et qu'ils s'inscrivent dans un programme d'apprentissage des comportements;
 - b) l'utilisation de casques, de mitaines protectrices ou de tout autre matériel afin d'empêcher une personne de s'infliger un préjudice corporel ou de s'en infliger davantage. («physical restraint»)
- «contentions mécaniques» Appareil, matériel ou équipement qui réduit la capacité d'une personne à bouger librement. S'entend notamment de menottes, jetables ou non, d'entraves, de ceintures de force, de chaînes à la taille et de chaînes d'accompagnement. («mechanical restraints»)
- «croyance» S'entend en outre de la religion. («creed»)
- «directeur» Directeur nommé en vertu du paragraphe 53 (1). («Director»)
- «directeur local» Directeur local nommé en vertu de l'article 38. («local director»)
- «directeur provincial» S'entend :
- a) soit de la personne, du groupe ou de la catégorie de personnes, ou de l'organisme que le lieutenant-gouverneur en conseil ou son délégué nomme ou désigne pour exercer les attributions que la *Loi sur le système de justice pénale pour les adolescents* (Canada) confère au directeur provincial;
 - b) soit de la personne nommée en vertu de l'alinéa 146 (1) a). («provincial director»)
- «dossier» Dossier de renseignements se présentant sous quelque forme ou sur quelque support que ce soit, notamment sous forme écrite, imprimée, photographique ou électronique. Sont toutefois exclus de la présente définition les programmes informatiques et autres mécanismes qui permettent de produire un dossier. («record»)
- «enfant» Personne de moins de 18 ans. («child»)
- «enfant recevant des soins» ou «enfant qui reçoit des soins» Enfant ou adolescent à qui un fournisseur de services fournit des soins en établissement. S'entend en outre de :
- a) l'enfant confié aux soins d'un parent de famille d'accueil;
 - b) l'adolescent qui est, selon le cas :
 - (i) détenu dans un lieu de détention provisoire en application de la *Loi sur le système de justice pénale pour les adolescents* (Canada),
 - (ii) placé dans un lieu de garde en milieu fermé ou en milieu ouvert désigné en vertu du paragraphe 24.1 (1) de la *Loi sur les jeunes contrevenants* (Canada), que ce soit conformément à l'article 88 de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou autrement,
 - (iii) gardé dans un lieu de garde en milieu ouvert en vertu de l'article 150 de la présente loi. («child in care»)
- «famille élargie» Personnes à qui un enfant est lié, notamment par une union conjugale ou l'adoption. Dans le cas d'un enfant inuit, métis ou de Premières Nations, s'entend en outre de tout membre :
- a) d'une bande dont l'enfant est membre;
 - b) d'une bande avec laquelle l'enfant s'identifie;
 - c) d'une communauté inuite, métisse ou de Premières Nations dont l'enfant est membre;

- d) d'une communauté autochtone, métisse ou de Premières Nations avec laquelle l'enfant s'identifie. («extended family»)
- «fournisseur de services» L'un ou l'autre des particuliers ou organismes suivants, à l'exclusion d'un parent de famille d'accueil :
- a) le ministre;
 - b) un titulaire de permis;
 - c) une personne ou entité, y compris une société, qui fournit un service financé en application de la présente loi;
 - d) une personne ou entité prescrite. («service provider»)
- «lieu de détention provisoire» Lieu ou établissement désigné comme tel sous le régime de la *Loi sur le système de justice pénale pour les adolescents* (Canada). («place of temporary detention»)
- «lieu de détention provisoire en milieu fermé» Lieu de détention provisoire où le ministre a mis sur pied un programme de détention en milieu fermé. («place of secure temporary detention»)
- «lieu de détention provisoire en milieu ouvert» Lieu de détention provisoire où le ministre a mis sur pied un programme de détention en milieu ouvert. («place of open temporary detention»)
- «lieu de garde en milieu fermé» Lieu ou établissement désigné pour le placement ou l'internement sécuritaires des adolescents en vertu du paragraphe 24.1 (1) de la *Loi sur les jeunes contrevenants* (Canada), que ce soit conformément à l'article 88 de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou autrement. («place of secure custody»)
- «lieu de garde en milieu ouvert» Lieu ou établissement désigné comme tel en vertu du paragraphe 24.1 (1) de la *Loi sur les jeunes contrevenants* (Canada), que ce soit conformément à l'article 88 de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou autrement. («place of open custody»)
- «membre de la parenté» Relativement à un enfant, s'entend d'une personne qui est son grand-père, sa grand-mère, son grand-oncle, sa grand-tante, son oncle ou sa tante, notamment par une union conjugale ou l'adoption. («relative»)
- «ministère» Le ministère du ministre. («Ministry»)
- «ministre» Le ministre des Services à l'enfance et à la jeunesse ou l'autre membre du Conseil exécutif qui est chargé de l'application de la présente loi en vertu de la *Loi sur le Conseil exécutif*. («Minister»)
- «permis» Permis délivré sous le régime de la partie VIII (Adoption et délivrance de permis relatifs à l'adoption) ou de la partie IX (Permis d'établissement). La mention d'un permis dans la partie VIII vaut mention d'un permis délivré sous le régime de cette partie et la mention d'un permis dans la partie IX vaut mention d'un permis délivré sous le régime de cette partie. («licence»)
- «placement en établissement» Fait de placer un enfant dans un lieu où sont fournis des soins en établissement. Le terme «placé dans un établissement» a un sens correspondant. («residential placement»)
- «prescrit» Prescrit par les règlements. («prescribed»)
- «règlements» Les règlements pris en vertu de la présente loi. («regulations»)
- «renseignements personnels» S'entend au sens de la *Loi sur l'accès à l'information et la protection de la vie privée*. («personal information»)
- «service» S'entend de l'un ou l'autre des services suivants :
- a) un service fourni soit à un enfant ayant une déficience intellectuelle ou physique, soit à la famille d'un tel enfant;
 - b) un service de santé mentale fourni soit à un enfant, soit à sa famille;
 - c) un service lié à des soins en établissement et fourni à un enfant;
 - d) un service fourni soit à un enfant qui a ou peut avoir besoin de protection, soit à la famille d'un tel enfant;
 - e) un service lié à l'adoption et fourni à un enfant, à sa famille ou à d'autres personnes;
 - f) un service de counseling fourni soit à un enfant, soit à sa famille;
 - g) un service fourni à un enfant ou à sa famille qui revêt la forme d'un service de soutien ou de prévention et qui est offert en milieu communautaire;
 - h) un service ou un programme fourni à l'intention d'un adolescent ou pour son compte pour l'application de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou de la *Loi sur les infractions provinciales*;
 - i) un service prescrit. («service»)
- «société» Agence désignée comme société d'aide à l'enfance en vertu du paragraphe 34 (1). («society»)

«soins conformes aux traditions» S'entend des soins fournis à un enfant inuit, métis ou de Premières Nations et de la surveillance d'un tel enfant, par une personne qui n'est pas un parent de l'enfant, conformément à la coutume de la bande ou de la communauté inuite, métisse ou de Premières Nations à laquelle l'enfant appartient. («customary care»)

«soins en établissement» Le vivre, le couvert et les soins connexes, notamment la surveillance, les soins en établissement protégé ou les soins de groupe, fournis à l'enfant à l'extérieur du foyer de son parent, à l'exclusion du vivre, du couvert ou des soins connexes fournis à l'enfant qui a été confié à la garde légitime et aux soins d'un membre de sa parenté, de sa famille élargie ou de sa communauté. («residential care»)

«soins fournis par une famille d'accueil» Prestation à un enfant, par une personne et dans son foyer, de soins en établissement. Cette personne :

- a) reçoit une indemnité au titre des soins fournis à l'enfant, autre qu'une indemnité versée en vertu de la *Loi de 1997 sur le programme Ontario au travail* ou de la *Loi de 1997 sur le Programme ontarien de soutien aux personnes handicapées*;
- b) n'est ni un parent de l'enfant, ni une personne auprès de laquelle l'enfant a été placé en vue de son adoption sous le régime de la partie VIII (Adoption et délivrance de permis relatifs à l'adoption).

Les termes «famille d'accueil» et «parent de famille d'accueil» ont un sens correspondant. («foster care», «foster home», «foster parent»)

«superviseur de programme» Superviseur de programme nommé en vertu du paragraphe 53 (2). («program supervisor»)

«titulaire de permis» Quiconque détient un permis. («licensee»)

«traitement» S'entend au sens du paragraphe 2 (1) de la *Loi de 1996 sur le consentement aux soins de santé*. («treatment»)

«tribunal» La Cour de justice de l'Ontario ou la Cour de la famille de la Cour supérieure de justice. («court»)

«Tribunal» Le Tribunal d'appel en matière de permis. («Tribunal»)

Interprétation : «parent»

(2) Sauf disposition contraire de la présente loi, la mention dans la présente loi d'un parent d'un enfant vaut mention, selon le cas :

- a) de la personne qui a la garde légitime de l'enfant;
- b) si plus d'une personne a la garde légitime de l'enfant, de toutes les personnes qui en ont la garde légitime, à l'exclusion de celle qui n'est pas disponible ou qui est incapable d'agir, selon le contexte.

Membres de la communauté de l'enfant ou de l'adolescent

(3) Pour l'application de la présente loi, les personnes suivantes sont membres de la communauté à laquelle un enfant ou un adolescent appartient :

1. La personne qui a des liens ethniques, culturels ou confessionnels en commun avec l'enfant ou l'adolescent ou avec un parent, un frère, une sœur ou un membre de la parenté de l'enfant ou de l'adolescent.
2. La personne qui a une relation bénéfique et importante avec l'enfant ou l'adolescent ou avec un parent, un frère, une sœur ou un membre de la parenté de l'enfant ou de l'adolescent.

Interprétation : bandes et communautés inuites, métisses ou de Premières Nations

(4) La mention, dans la présente loi, de bandes ou de communautés inuites, métisses ou de Premières Nations auxquelles un enfant ou un adolescent appartient inclut l'ensemble de ce qui suit :

1. Toute bande dont l'enfant ou l'adolescent est membre.
2. Toute bande avec laquelle l'enfant ou l'adolescent s'identifie.
3. Toute communauté inuite, métisse ou de Premières Nations dont l'enfant ou l'adolescent est membre.
4. Toute communauté inuite, métisse ou de Premières Nations avec laquelle l'enfant ou l'adolescent s'identifie.

PARTIE II

DROITS DES ENFANTS ET DES ADOLESCENTS

DROITS DES ENFANTS ET DES ADOLESCENTS RECEVANT DES SERVICES

Droits des enfants et des adolescents recevant des services

3 Chaque enfant et chaque adolescent qui reçoit des services sous le régime de la présente loi a les droits suivants :

1. Le droit d'exprimer son opinion librement et sans risque à propos des questions qui le concernent.

2. Le droit de s'exprimer, dans le cadre d'un dialogue honnête et respectueux, sur la façon dont sont prises les décisions à son égard et sur ce qui les motive ainsi que le droit d'obtenir que son opinion soit dûment prise en considération eu égard à son âge et à son degré de maturité.
3. Le droit d'être consulté à propos de la nature des services qui lui sont fournis ou qui doivent l'être, le droit de prendre part aux décisions au sujet de ces services et le droit d'être informé des décisions prises à l'égard de ces services.
4. Le droit d'exprimer ses préoccupations ou de recommander des changements à l'égard des services qui lui sont fournis ou qui doivent l'être, et ce sans aucune ingérence et sans craindre de faire l'objet de contrainte, de discrimination ou de représailles et le droit de recevoir une réponse à ces préoccupations ou changements.
5. Le droit d'être informé, dans un langage adapté à son niveau de compréhension, des droits que lui confère la présente partie.
6. Le droit d'être informé, dans un langage adapté à son niveau de compréhension, de l'existence et du rôle de l'intervenant provincial en faveur des enfants et des jeunes et de la manière de le contacter.

Châtiments corporels interdits

4 Aucun fournisseur de services ou parent de famille d'accueil ne doit infliger un châtiment corporel à un enfant ou à un adolescent ni permettre qu'un tel châtiment lui soit infligé dans le cadre de la prestation d'un service à cet enfant ou à cet adolescent.

Restrictions applicables à la détention

5 Aucun fournisseur de services ou parent de famille d'accueil ne doit détenir un enfant ou un adolescent dans des locaux fermés à clé ni permettre qu'il y soit détenu dans le cadre de la prestation d'un service à cet enfant ou à cet adolescent, sauf dans la mesure autorisée par la partie VI (Justice pour les adolescents) et la partie VII (Mesures extraordinaires).

Restrictions applicables à l'utilisation de la contention physique

6 Aucun fournisseur de services ou parent de famille d'accueil ne doit utiliser la contention physique, ni en autoriser l'utilisation, sur un enfant ou un adolescent à qui il fournit des services, sauf dans la mesure autorisée par les règlements.

Restrictions applicables à l'utilisation de contentions mécaniques

7 Aucun fournisseur de services ou parent de famille d'accueil ne doit utiliser des contentions mécaniques, ni en autoriser l'utilisation, sur un enfant ou un adolescent à qui il fournit des services, sauf dans la mesure autorisée par la partie VI (Justice pour les adolescents), la partie VII (Mesures extraordinaires) et les règlements.

DROITS DES ENFANTS RECEVANT DES SOINS

Droit d'exprimer son point de vue à l'égard des décisions

8 (1) Il est entendu que les droits d'un enfant recevant des soins qui sont énoncés à l'article 3 s'appliquent aux décisions qui concernent l'enfant, notamment les décisions relatives à ce qui suit :

- a) le traitement, l'éducation ou les programmes de formation ou de travail fournis à l'intention de l'enfant ou de l'adolescent;
- b) les croyances, l'identité communautaire et l'identité culturelle de l'enfant ou de l'adolescent;
- c) le placement en établissement ou le congé de l'établissement où l'enfant ou l'adolescent est placé ou son transfert à un autre établissement.

Opinion dûment prise en considération

(2) L'opinion de l'enfant ou de l'adolescent à propos des décisions visées au paragraphe (1) doit être dûment prise en considération eu égard à son âge et à son degré de maturité, conformément à la disposition 2 de l'article 3.

Droit d'être informé : admission dans un établissement

9 À son admission dans un établissement, et à des intervalles réguliers par la suite, ou, si des intervalles sont prescrits, aux intervalles prescrits par la suite, l'enfant qui reçoit des soins a le droit d'être informé, dans un langage qu'il peut comprendre, des points suivants :

- a) les droits que lui confère la présente partie;
- b) les protocoles de règlement des plaintes mis au point en vertu du paragraphe 18 (1) et la possibilité de demander un examen supplémentaire conformément à l'article 19;
- c) les protocoles d'examen ou de révision dont peuvent se prévaloir les enfants en vertu des articles 64, 65 et 66;
- d) les protocoles de révision dont peut se prévaloir l'adolescent visé à l'alinéa b) de la définition de «enfant recevant des soins» ou «enfant qui reçoit des soins» au paragraphe 2 (1) en vertu de l'article 152;
- e) ses responsabilités pendant son placement;

- f) les règles concernant le fonctionnement quotidien du programme de soins en établissement, y compris les mesures disciplinaires.

Droits en matière de communications

10 (1) L'enfant qui reçoit des soins a les droits suivants :

- a) le droit d'avoir régulièrement des conversations privées avec les membres de sa famille ou de sa famille élargie, de leur rendre régulièrement visite et de recevoir leur visite régulière, sous réserve du paragraphe (2);
- b) le droit, sans délai déraisonnable, d'avoir des conversations privées avec les personnes suivantes et de recevoir leur visite :
 - (i) son avocat,
 - (ii) une autre personne le représentant, y compris l'intervenant provincial en faveur des enfants et des jeunes et les membres de son personnel,
 - (iii) l'ombudsman nommé en vertu de la *Loi sur l'ombudsman* et les membres de son personnel,
 - (iv) un député à l'Assemblée législative de l'Ontario ou au Parlement du Canada;
- c) le droit d'envoyer et de recevoir des communications écrites qui ne sont ni lues, ni examinées ni censurées par une autre personne, sous réserve des paragraphes (3) et (4).

Cas où l'enfant est confié aux soins d'une société de façon prolongée

(2) L'enfant qui reçoit des soins et qui est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) n'a pas le droit reconnu d'avoir des conversations avec un membre de sa famille ou de sa famille élargie, de lui rendre visite ou de recevoir sa visite, si ce n'est en application d'une ordonnance de visite rendue sous le régime de la partie V (Protection de l'enfance) ou d'une ordonnance de communication ou d'un accord de communication rendue ou conclu sous le régime de la partie VIII (Adoption et délivrance de permis relatifs à l'adoption).

Examen des communications écrites destinées à un enfant recevant des soins

(3) Sous réserve du paragraphe (4), les communications écrites qui sont destinées à un enfant recevant des soins :

- a) peuvent être ouvertes par le fournisseur de services ou un membre de son personnel en présence de l'enfant ou de l'adolescent et examinées dans le but de vérifier si elles contiennent des articles qu'interdit le fournisseur;
- b) peuvent être examinées ou lues par le fournisseur de services ou un membre de son personnel en présence de l'enfant ou de l'adolescent, sous réserve de l'alinéa c), si le fournisseur croit, en se fondant sur des motifs raisonnables, que le contenu de ces communications peut causer des maux physiques ou affectifs à l'enfant ou à l'adolescent;
- c) ne doivent être ni examinées ni lues par le fournisseur de services ou un membre de son personnel si elles proviennent de la personne visée au sous-alinéa (1) b) (i), (ii), (iii) ou (iv) ou lui sont destinées;
- d) ne doivent être ni censurées ni retenues, les articles qu'interdit le fournisseur de services pouvant toutefois en être retirés et ne pas être remis à l'enfant ou à l'adolescent.

Examen des communications écrites destinées à un adolescent

(4) Les communications écrites qu'envoie un adolescent détenu dans un lieu de détention provisoire ou gardé dans un lieu de garde en milieu fermé ou en milieu ouvert, ou qui lui sont destinées :

- a) peuvent être ouvertes par le fournisseur de services ou un membre de son personnel en présence de l'adolescent et examinées dans le but de vérifier si elles contiennent des articles qu'interdit le fournisseur;
- b) peuvent être examinées ou lues par le fournisseur de services ou un membre de son personnel et retenues intégralement ou partiellement si le fournisseur ou le membre de son personnel croit, en se fondant sur des motifs raisonnables, que le contenu de ces communications peut :
 - (i) soit nuire à l'intérêt véritable de l'adolescent, à la sécurité publique ou à la sécurité du lieu de détention ou de garde,
 - (ii) soit renfermer des éléments interdits par la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou une ordonnance judiciaire;
- c) ne doivent être ni examinées ni lues en vertu de l'alinéa b) si elles proviennent de l'avocat de l'adolescent ou lui sont destinées;
- d) ne doivent être ni ouvertes ni examinées en vertu de l'alinéa a), ni examinées ni lues en vertu de l'alinéa b), si elles proviennent d'une personne visée au sous-alinéa (1) b) (ii), (iii) ou (iv) ou lui sont destinées.

Définition

(5) La définition qui suit s'applique au présent article.

«communications écrites» Courrier et communication électronique sous quelque forme que ce soit.

Visiteurs : conditions et restrictions applicables

11 (1) Le fournisseur de services peut imposer aux personnes qui rendent visite à un adolescent dans un lieu de détention provisoire ou un lieu de garde en milieu ouvert ou en milieu fermé les conditions et les restrictions qui sont nécessaires pour assurer la sécurité des membres du personnel ou des adolescents présents dans le lieu.

Suspension des visites en situation d'urgence

(2) Le fournisseur de services qui a des motifs raisonnables de croire qu'il existe dans un lieu de détention provisoire ou un lieu de garde en milieu ouvert ou en milieu fermé, ou dans la collectivité, une situation d'urgence pouvant présenter un danger pour les membres du personnel ou les adolescents présents dans le lieu peut suspendre les visites jusqu'à ce qu'il ait des motifs raisonnables de croire que la situation est réglée et qu'il n'y a plus de danger.

Exception

(3) Malgré le paragraphe (2), le fournisseur de services ne peut pas suspendre les visites des personnes suivantes, sauf si le directeur provincial établit que cette mesure est nécessaire pour assurer la sécurité publique ou la sécurité des membres du personnel ou des adolescents présents dans le lieu :

- a) l'intervenant provincial en faveur des enfants et des jeunes et les membres de son personnel;
- b) l'ombudsman nommé en vertu de la *Loi sur l'ombudsman* et les membres de son personnel;
- c) un député à l'Assemblée législative de l'Ontario ou au Parlement du Canada.

Libertés personnelles

12 L'enfant qui reçoit des soins a les droits suivants :

- a) le droit d'avoir un niveau raisonnable de vie privée et de jouir, raisonnablement, de la possession de ses effets personnels, sous réserve de l'article 155;
- b) le droit de recevoir un enseignement lié à ses croyances, à son identité communautaire et à son identité culturelle, et le droit de participer aux activités connexes de son choix, sous réserve de l'article 14.

Programme de soins

13 (1) L'enfant qui reçoit des soins a droit à un programme de soins conçu pour répondre à ses besoins particuliers. Ce programme doit être élaboré dans les 30 jours suivant l'admission de l'enfant ou de l'adolescent dans un établissement.

Droit de recevoir des soins

(2) L'enfant qui reçoit des soins a les droits suivants :

- a) le droit de participer à l'élaboration du programme de soins qui le concerne et aux modifications qui y sont apportées;
- b) le droit d'avoir accès à de la nourriture de bonne qualité et qui convient à l'enfant ou à l'adolescent, y compris des repas équilibrés;
- c) le droit de disposer de vêtements de bonne qualité et qui conviennent à l'enfant et à l'adolescent, compte tenu de sa taille, de ses activités et des conditions météorologiques;
- d) le droit de recevoir, autant que possible en milieu communautaire, des soins médicaux et dentaires, sous réserve de l'article 14, à intervalles réguliers et lorsqu'il en a besoin;
- e) le droit de recevoir, autant que possible en milieu communautaire, un enseignement qui correspond à ses aptitudes et à ses talents;
- f) le droit de participer, autant que possible en milieu communautaire, à des activités récréatives, sportives et créatives qui conviennent à ses aptitudes et à ses intérêts.

Consentement parental

14 Sous réserve du paragraphe 94 (7) et des articles 110 et 111 (garde de l'enfant pendant l'ajournement, ordonnance confiant un enfant aux soins d'une société de façon provisoire ou prolongée), le parent d'un enfant qui reçoit des soins garde les droits qu'il peut avoir :

- a) pour diriger l'éducation de l'enfant ou de l'adolescent et l'enseignement qui lui est dispensé dans le respect des croyances de l'enfant ou de l'adolescent, de son identité communautaire et de son identité culturelle;
- b) pour accorder son consentement au nom d'un enfant ou d'un adolescent qui est incapable à l'égard d'un traitement, s'il est le mandataire spécial de l'enfant ou de l'adolescent conformément à l'article 20 de la *Loi de 1996 sur le consentement aux soins de santé*.

OBLIGATIONS DES FOURNISSEURS DE SERVICES À L'ÉGARD DES DROITS DES ENFANTS ET DES ADOLESCENTS**Respect des droits des enfants et des adolescents**

15 (1) Les fournisseurs de services doivent respecter les droits des enfants et des adolescents énoncés dans la présente loi.

Droit des enfants et des adolescents d'être entendus et représentés

(2) Les fournisseurs de services veillent à ce que les enfants et les adolescents, ainsi que leurs parents, aient la possibilité d'être entendus et représentés lorsque sont prises des décisions concernant leurs intérêts et d'exprimer leurs préoccupations relativement aux services qu'ils reçoivent.

Exception

(3) Le paragraphe (2) ne s'applique ni aux enfants ou adolescents ni à leurs parents s'il existe un motif valable de ne pas leur accorder la possibilité d'être entendus ou représentés comme le prévoit ce paragraphe.

Décisions : critères et garanties

(4) Les fournisseurs de services veillent à ce que les décisions concernant les intérêts et les droits des enfants et des adolescents, ainsi que ceux de leurs parents, soient, d'une part, prises en fonction de critères clairs et uniformes et, d'autre part, assujetties aux garanties appropriées d'ordre procédural.

Renseignements visibles et accessibles concernant l'intervenant provincial en faveur des enfants et des jeunes

(5) Les fournisseurs de services doivent :

- a) afficher bien en vue dans leurs locaux, d'une manière visible pour les personnes recevant des services, un avis signalant l'existence et le rôle de l'intervenant provincial en faveur des enfants et des jeunes ainsi que la façon de prendre contact avec lui;
- b) sur demande, rendre accessibles les documents d'information produits par l'intervenant provincial en faveur des enfants et des jeunes.

Services en français

16 Lorsque cela est approprié, les fournisseurs de services offrent leurs services aux enfants et aux adolescents, ainsi qu'à leur famille, en français.

RÈGLEMENT EXTRAJUDICIAIRE DES DIFFÉRENDS**Méthode prescrite de règlement extrajudiciaire des différends**

17 (1) Si un enfant a ou peut avoir besoin de protection sous le régime de la présente loi, la société étudie si une méthode prescrite de règlement extrajudiciaire des différends pourrait faciliter le règlement de questions qui se rapportent à l'enfant ou à un programme de soins à lui fournir.

Enfant inuit, métis ou de Premières Nations

(2) Si les questions visées au paragraphe (1) se rapportent à un enfant inuit, métis ou de Premières Nations, la société consulte un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient en vue de décider si un processus de règlement extrajudiciaire des différends établi par les bandes et les communautés ou un autre processus semblable prescrit pourrait faciliter le règlement de ces questions.

Avocat des enfants

(3) Si la société ou une personne, y compris un enfant, qui reçoit des services de bien-être de l'enfance propose l'application d'une méthode ou d'un processus de règlement extrajudiciaire des différends visé au paragraphe (1) ou (2) pour faciliter le règlement d'une question qui se rapporte à un enfant ou à un programme de soins à lui fournir, l'avocat des enfants peut représenter l'enfant s'il est d'avis que cela est approprié.

Avis à la bande ou à la communauté

(4) Si elle propose ou se fait proposer l'application, en vertu du paragraphe (3), d'une méthode ou d'un processus de règlement extrajudiciaire des différends visé au paragraphe (1) ou (2) relativement à une question qui se rapporte à un enfant inuit, métis ou de Premières Nations, la société en avise un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

PLAINTES ET EXAMENS**Protocole de règlement des plaintes**

18 (1) Le fournisseur de services qui fournit des soins en établissement à des enfants ou à des adolescents ou qui place des enfants ou des adolescents en établissement met au point un protocole écrit, conformément aux règlements, pour entendre et régler ce qui suit :

- a) les plaintes relatives aux prétendues violations des droits que la présente partie accorde aux enfants qui reçoivent des soins;
- b) les plaintes présentées par les enfants qui reçoivent des soins ou les autres personnes concernées par les conditions ou les restrictions imposées aux visiteurs en vertu du paragraphe 11 (1) ou les suspensions de visites décidées en vertu du paragraphe 11 (2).

Intervenant provincial en faveur des enfants et des jeunes

(2) Le protocole mis au point en application du paragraphe (1) doit prévoir que le fournisseur de services informe les enfants qui reçoivent des soins qu'ils peuvent demander l'aide de l'intervenant provincial en faveur des enfants et des jeunes pour faire ce qui suit :

- a) présenter la plainte visée à l'alinéa (1) a) ou b);
- b) demander en vertu du paragraphe 19 (1) l'examen supplémentaire de la plainte une fois l'examen du fournisseur de services terminé.

Examen de la plainte

(3) Le fournisseur de services effectue ou fait effectuer un examen, conformément au protocole mis au point en application de l'alinéa (1) a) ou b), des plaintes présentées par une des personnes suivantes et cherche à les résoudre :

- a) un enfant ou un groupe d'enfants recevant des soins;
- b) le parent d'un enfant recevant des soins qui présente une plainte;
- c) une autre personne qui représente l'enfant recevant des soins et qui présente une plainte;
- d) une personne qui est concernée par une condition ou une restriction imposée aux visiteurs en vertu du paragraphe 11 (1) ou une suspension de visites décidée en vertu du paragraphe 11 (2).

Réponse aux plaignants

(4) À l'issue de l'examen qu'il effectue en application du paragraphe (3), le fournisseur de services informe chacune des personnes qui ont présenté la plainte, que ce soit en tant que particulier ou en tant que membre d'un groupe, des résultats de l'examen.

Examen supplémentaire

19 (1) Si la personne visée au paragraphe 18 (3) présente une plainte, que ce soit en tant que particulier ou en tant que membre d'un groupe, et n'est pas satisfaite des résultats de l'examen effectué en application de ce paragraphe et qu'elle demande par écrit que le ministre charge une personne d'effectuer un examen supplémentaire de la plainte, le ministre nomme à cette fin une personne qui n'est pas à l'emploi du fournisseur de services.

Idem

(2) La personne nommée en application du paragraphe (1) doit examiner la plainte conformément aux règlements et peut tenir une audience à cet effet.

Procédure

(3) La *Loi sur l'exercice des compétences légales* ne s'applique pas à l'audience tenue en vertu du paragraphe (2).

Pouvoirs

(4) La personne nommée en application du paragraphe (1) possède, pour les besoins de son examen, tous les pouvoirs d'un superviseur de programme nommé en vertu du paragraphe 53 (2).

Examen et rapport : délai de 30 jours

(5) La personne nommée en application du paragraphe (1) doit, dans les 30 jours suivant sa nomination, terminer son examen, énoncer dans un rapport ses conclusions et recommandations, y compris, le cas échéant, les raisons pour lesquelles elle n'a pas tenu d'audience, et communiquer des exemplaires de son rapport aux personnes suivantes :

- a) chacun des auteurs de la plainte, que ce soit en tant que particulier ou en tant que membre d'un groupe;
- b) le fournisseur de services;
- c) le ministre.

Communication de la décision du ministre

20 (1) Si, après avoir reçu le rapport visé au paragraphe 19 (5), le ministre décide de prendre des mesures relativement à la plainte, il communique sa décision au fournisseur de services et à chaque personne qui présente une plainte, que ce soit en tant que particulier ou en tant que membre d'un groupe.

Autres recours

(2) La décision du ministre visée au paragraphe (1) ne porte pas atteinte aux autres recours qui peuvent être disponibles.

CONSENTEMENT ET SERVICES VOLONTAIRES**Consentements et ententes**

21 (1) Les définitions qui suivent s'appliquent au présent article.

«jouit de toutes ses facultés mentales» État de celui qui est capable de comprendre et de saisir l'objet d'un consentement ou d'une entente, y compris les conséquences qui résultent du fait qu'il donne, refuse ou retire son consentement ou qu'il conclut ou non une entente ou la résilie. («capacity»)

«membre de la parenté le plus proche» Relativement à une personne de moins de 16 ans, s'entend de la personne qui en a la garde légitime. Relativement à une personne de 16 ans ou plus, s'entend de la personne qui serait autorisée à donner ou à refuser son consentement à un traitement au nom de cette personne en vertu de la *Loi de 1996 sur le consentement aux soins de santé* si cette personne était incapable à l'égard du traitement sous le régime de cette loi. («nearest relative»)

Éléments du consentement valide

(2) Dans le cadre de la présente loi, le consentement ou le retrait du consentement d'une personne, la participation d'une personne à une entente ou la résiliation, par une personne, d'une entente est valide si, au moment de donner ou de retirer son consentement ou de conclure ou de résilier l'entente, la personne :

- a) jouit de toutes ses facultés mentales;
- b) est suffisamment informée de l'objet du consentement ou de l'entente, de ses conséquences et des solutions de rechange;
- c) donne ou retire son consentement, ou signe l'entente ou l'avis de résiliation volontairement, sans contrainte ou abus d'influence;
- d) a eu l'occasion suffisante d'obtenir des conseils de personnes indépendantes.

Personne qui ne jouit pas de toutes ses facultés mentales

(3) Le membre de la parenté d'une personne le plus proche peut, au nom de cette personne, donner ou retirer un consentement, ou participer à une entente ou la résilier, s'il a été établi, en fonction d'une évaluation effectuée dans l'année précédant le moment où le membre de la parenté le plus proche agit au nom de la personne, que celle-ci ne jouit pas de toutes ses facultés mentales.

Exceptions : article 180 et alinéa 74 (2) n)

(4) Le paragraphe (3) ne s'applique ni au consentement donné en vertu de l'article 180 (consentement à l'adoption) ni au consentement parental visé à l'alinéa 74 (2) n) (enfant ayant besoin de protection).

Consentement du mineur

(5) Dans le cadre de la présente loi, n'est pas nul le consentement ou le retrait du consentement d'une personne, ou la participation d'une personne à une entente ou la résiliation, par cette personne, d'une entente, du seul fait que la personne a moins de 18 ans.

Exception : partie X

(6) Le présent article ne s'applique pas à l'égard de la collecte, de l'utilisation ou de la divulgation de renseignements personnels sous le régime de la partie X (Renseignements personnels).

Consentement à un service**Consentement : personne de 16 ans ou plus**

22 (1) Sous réserve de l'alinéa (2) b) et du paragraphe (3), le fournisseur de services peut fournir un service à une personne de 16 ans ou plus uniquement avec le consentement de cette personne, sauf si le tribunal ordonne, en vertu de la présente loi, que le service soit fourni à cette personne.

Consentement : enfant de moins de 16 ans ou enfant confié aux soins d'une société

(2) Sauf disposition contraire de la présente loi, le fournisseur de services ne peut fournir des soins en établissement à un enfant :

- a) qu'avec le consentement d'un parent de l'enfant, si celui-ci a moins de 16 ans;
- b) qu'avec le consentement de la société, si l'enfant est confié à la garde légitime d'une société.

Exception — Partie VI

(3) Les paragraphes (1) et (2) ne s'appliquent pas si le service est fourni à un adolescent sous le régime de la partie VI (Justice pour les adolescents).

Congé du placement en établissement

(4) L'enfant placé en établissement avec le consentement visé au paragraphe (1) ou (2) ne peut obtenir son congé, selon le cas :

- a) qu'avec le consentement qui serait exigé pour un nouveau placement en établissement;
- b) que conformément à l'article 76 (avis de résiliation), si le placement est effectué aux termes d'une entente conclue en vertu du paragraphe 75 (1) (ententes relatives à des soins temporaires);
- c) que conformément au paragraphe 77 (4) (avis de résiliation de l'entente), si le placement est effectué aux termes d'une entente conclue en vertu du paragraphe 77 (1) (ententes avec des jeunes de 16 et 17 ans).

Transfert à un autre établissement

(5) L'enfant placé en établissement avec le consentement visé au paragraphe (1) ou (2) ne doit pas être transféré d'un établissement à un autre, à moins que le consentement qui serait exigé pour un nouveau placement en établissement ne soit donné.

Opinion et désirs de l'enfant

(6) Avant de placer un enfant dans un établissement, de lui donner son congé d'un établissement ou de le transférer d'un établissement à un autre avec le consentement visé au paragraphe (2), le fournisseur de services :

- a) d'une part, veille à ce que l'enfant et la personne dont le consentement est exigé par le paragraphe (2) soient informés des motifs du placement, du congé ou du transfert et à ce qu'ils comprennent, dans la mesure du possible, ces motifs;
- b) d'autre part, prend dûment en considération l'opinion et les désirs de l'enfant eu égard à son âge et à son degré de maturité.

Application de la Loi de 1996 sur le consentement aux soins de santé

(7) Si le service fourni est un traitement auquel la *Loi de 1996 sur le consentement aux soins de santé* s'applique, les dispositions de cette loi qui se rapportent au consentement s'appliquent à la place du présent article.

Service de counseling fourni à l'enfant de 12 ans ou plus

23 (1) Le fournisseur de services peut, avec le seul consentement de l'enfant, fournir un service de counseling à un enfant de 12 ans ou plus. Toutefois, si l'enfant a moins de 16 ans, le fournisseur de services discute avec lui, le plus tôt possible, compte tenu des circonstances, de l'avantage de faire participer son parent.

Application de la Loi de 1996 sur le consentement aux soins de santé

(2) Si le service de counseling fourni est un traitement auquel la *Loi de 1996 sur le consentement aux soins de santé* s'applique, les dispositions de cette loi qui se rapportent au consentement s'appliquent à la place du paragraphe (1).

PARTIE III FINANCEMENT ET RESPONSABILISATION

Définition

24 La définition qui suit s'applique à la présente partie.

«organisme responsable» Entité désignée comme organisme responsable en vertu du paragraphe 30 (1).

FINANCEMENT DES SERVICES ET DES ORGANISMES RESPONSABLES

Prestation directe ou indirecte de services

25 Le ministre peut :

- a) fournir des services;
- b) mettre sur pied, faire fonctionner et entretenir des locaux afin d'y fournir des services;
- c) allouer des fonds, conformément à des ententes, à des personnes, des agences, des municipalités, des organisations et d'autres entités prescrites :
 - (i) pour la prestation ou la coordination de services par ces dernières,
 - (ii) pour l'acquisition, l'entretien ou le fonctionnement des locaux utilisés en vue de la prestation ou de la coordination de services,
 - (iii) pour la constitution de groupes ou comités consultatifs à l'égard des services,

- (iv) pour des activités de recherche, d'évaluation, de planification, de développement, de coordination ou de reconception à l'égard de services,
- (v) pour toute autre fin prescrite;
- d) allouer des fonds, conformément à des ententes, à des organismes responsables à l'égard de l'exercice des fonctions visées au paragraphe 30 (5).

Services aux personnes de plus de 18 ans

26 Le ministre peut fournir des services et allouer des fonds, conformément à des ententes, pour la prestation de services à des personnes qui ne sont pas des enfants, et à leur famille, comme s'il s'agissait d'enfants.

Comité consultatif du ministre

27 Le ministre peut nommer les membres d'un comité consultatif du ministre, établi par décret du lieutenant-gouverneur en conseil, pour le conseiller sur les questions liées au bien-être de l'enfance et de la famille.

Garantie

28 Le ministre peut exiger, comme condition d'un paiement effectué en vertu de la présente partie ou des règlements, que le bénéficiaire des fonds les garantisse au moyen d'une hypothèque, d'un privilège, d'une charge, d'un avertissement ou de l'inscription de l'entente, ou de la manière qu'il précise.

Conditions relatives au transfert des éléments d'actif

29 Aucun fournisseur de services ou organisme responsable ne doit transférer ou céder une partie de ses éléments d'actif acquis grâce à l'aide financière de la province de l'Ontario, si ce n'est conformément aux règlements ou aux conditions d'une entente conclue avec le ministre.

Organismes responsables

Désignation

30 (1) Le ministre peut désigner une entité comme organisme responsable.

Conditions relatives à la désignation

(2) Le ministre peut assortir la désignation faite en vertu du présent article de conditions et il peut, à tout moment, modifier ou annuler ces conditions ou en imposer de nouvelles.

Révocation de la désignation

(3) Le ministre peut révoquer la désignation faite en vertu du présent article.

Catégories d'organismes responsables

(4) Le ministre peut affecter des organismes responsables aux différentes catégories d'organismes responsables établies par les règlements.

Fonctions des organismes responsables

(5) Chaque organisme responsable exerce les fonctions que les règlements attribuent à sa catégorie.

Liste des organismes responsables et des catégories

(6) Le ministre tient une liste des organismes responsables et de leurs catégories.

Mise à la disposition du public

(7) Le ministre met la liste à la disposition du public.

Conformité des placements à la Loi, aux règlements et aux directives

31 Aucun fournisseur de services ne doit placer un enfant dans un établissement, si ce n'est conformément à la présente loi, aux règlements et aux directives données en vertu de la présente loi.

DIRECTIVES ET ORDRES DE CONFORMITÉ (ORGANISMES RESPONSABLES ET FOURNISSEURS DE SERVICES)

Directives du ministre

Non-application

32 (1) Le présent article et l'article 33 ne s'appliquent pas à l'égard :

- a) des titulaires de permis délivré sous le régime de la partie IX (Permis d'établissement), lorsqu'ils agissent dans le cadre des attributions prévues par cette partie;
- b) des sociétés, lorsqu'elles exercent les fonctions que leur attribue le paragraphe 35 (1).

Directives

(2) Le ministre peut donner des directives aux fournisseurs de services et aux organismes responsables à l'égard de toute question prescrite.

Caractère contraignant des directives

(3) Les fournisseurs de services et les organismes responsables doivent se conformer aux directives qui leur sont données en vertu du présent article.

Portée générale ou particulière

(4) Les directives peuvent avoir une portée générale ou particulière.

Primauté du droit

(5) Il est entendu que, en cas d'incompatibilité entre une directive donnée en vertu du présent article et une disposition de toute loi applicable ou règle de toute loi applicable, la disposition de la loi ou de la règle l'emporte.

Mise à la disposition du public

(6) Le ministre met chaque directive donnée en vertu du présent article à la disposition du public.

Non-application de la *Loi de 2006 sur la législation*

(7) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux directives données en vertu du présent article.

Ordre de conformité**Motifs**

33 (1) Le superviseur de programme peut donner un ordre visé au paragraphe (2) s'il croit, en se fondant sur des motifs raisonnables, qu'un fournisseur de services ou un organisme responsable ne s'est pas conformé à ce qui suit :

- a) la présente loi ou les règlements;
- b) une directive donnée en vertu de l'article 32;
- c) dans le cas d'un fournisseur de services, une entente visée à l'alinéa 25 c) ou à l'article 26;
- d) dans le cas d'un organisme responsable, selon le cas :
 - (i) une entente visée à l'alinéa 25 d),
 - (ii) une condition prévue au paragraphe 30 (2) et dont est assorti son acte de désignation,
 - (iii) le paragraphe 30 (5) (fonctions des organismes responsables).

Ordre

(2) Pour l'application du paragraphe (1), le superviseur de programme peut donner un ordre au fournisseur de services ou à l'organisme responsable leur enjoignant de prendre l'une ou l'autre des mesures suivantes ou les deux :

1. Faire ou s'abstenir de faire quoi que ce soit pour assurer la conformité dans le délai précisé dans l'ordre.
2. Préparer, présenter et mettre en application, dans le délai précisé dans l'ordre, un plan pour assurer la conformité.

Caractère contraignant d'un ordre

(3) Le fournisseur de services ou l'organisme responsable auquel un ordre est signifié en vertu du présent article doit s'y conformer dans le délai qui y est précisé.

Mise à la disposition du public

(4) Le ministre :

- a) peut mettre à la disposition du public les ordres donnés en vertu du présent article;
- b) doit mettre à la disposition du public un sommaire de chaque ordre donné en vertu du présent article conformément aux règlements.

Non-conformité

(5) Si le fournisseur de services ou l'organisme responsable ne se conforme pas à un ordre qui lui a été donné en vertu du présent article dans le délai précisé dans l'ordre, le ministre peut mettre fin à tout ou partie du financement alloué au fournisseur ou à l'organisme.

SOCIÉTÉS D'AIDE À L'ENFANCE

Société d'aide à l'enfance**Désignation**

34 (1) Le ministre peut désigner une agence comme société d'aide à l'enfance à l'égard, d'une part, d'un territoire de compétence précisé et, d'autre part, de tout ou partie des fonctions d'une société énoncées au paragraphe 35 (1).

Désignation assortie de conditions

(2) En ce qui concerne tout ou partie des fonctions d'une société énoncées au paragraphe 35 (1), le ministre peut assortir l'acte de désignation de conditions et peut à tout moment modifier ou annuler ces conditions ou en imposer de nouvelles.

Modification de l'acte de désignation

(3) Le ministre peut à tout moment modifier l'acte de désignation afin soit de prévoir que la société n'est plus désignée pour exercer une ou des fonctions particulières énoncées au paragraphe 35 (1), soit de modifier son territoire de compétence.

Société réputée être un conseil local

(4) Pour l'application de la *Loi de 2006 sur le Régime de retraite des employés municipaux de l'Ontario* et de la *Loi sur les conflits d'intérêts municipaux*, la société est réputée être un conseil local de chaque municipalité où elle exerce sa compétence.

Non des mandataires de la Couronne

(5) La société ainsi que ses membres, dirigeants, employés et mandataires ne sont pas des mandataires de la Couronne du chef de l'Ontario et ne doivent pas se faire passer pour tels.

Immunité de la Couronne

(6) Sont irrecevables les actions ou autres instances introduites contre la Couronne du chef de l'Ontario pour un acte accompli ou une omission commise par une société ou ses membres, dirigeants, employés ou mandataires.

Fonctions

35 (1) Les fonctions d'une société d'aide à l'enfance sont les suivantes :

- a) enquêter sur les allégations ou les preuves selon lesquelles des enfants peuvent avoir besoin de protection;
- b) protéger les enfants en cas de besoin;
- c) offrir aux familles des services, notamment d'orientation ou de counseling, pour protéger les enfants ou pour prévenir les situations nécessitant la protection d'enfants;
- d) fournir des soins aux enfants qui lui sont confiés à cette fin sous le régime de la présente loi;
- e) exercer une surveillance sur les enfants qui lui sont confiés à cette fin sous le régime de la présente loi;
- f) placer des enfants en vue de leur adoption sous le régime de la partie VIII (Adoption et délivrance de permis relatifs à l'adoption);
- g) exercer les autres fonctions que lui attribuent la présente loi ou les règlements ou toute autre loi.

Normes prescrites

(2) La société :

- a) fournit, dans l'exercice de ses fonctions, des services conformes aux normes prescrites;
- b) respecte les modalités prescrites.

Questions de gouvernance**Représentants inuits, métis ou de Premières Nations au conseil**

36 (1) La société qui fournit des services aux enfants et aux familles inuits, métis ou de Premières Nations doit comprendre, au sein de son conseil d'administration, le nombre prescrit de représentants inuits, métis ou de Premières Nations. Ces représentants doivent être nommés de la manière et pour des mandats prescrits.

Employés de la société

(2) Les employés d'une société ne doivent pas être membres de son conseil d'administration.

Règlements administratifs

(3) Les règlements administratifs d'une société doivent inclure les dispositions prescrites.

Immunité

37 Sont irrecevables les actions introduites contre un membre du conseil d'administration ou un dirigeant ou un employé d'une société pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel de ses fonctions ou pour une négligence ou un manquement qu'il aurait commis dans l'exercice de bonne foi de ces fonctions.

Nomination d'un directeur local

38 La société nomme un directeur local qui possède les qualités requises prescrites et exerce les pouvoirs et fonctions prescrits.

Désignation de lieux sûrs

39 Pour l'application de la partie V (Protection de l'enfance), le directeur local peut désigner un lieu ou une catégorie de lieux comme lieux sûrs.

FINANCEMENT ET ENTENTES DE RESPONSABILISATION**Financement****Païement par le ministre**

40 (1) Le ministre verse à chaque société une somme calculée conformément aux règlements et prélevée sur les crédits affectés à cette fin par la Législature.

Mode de paiement

(2) La somme payable à une société en application du paragraphe (1), y compris les avances consenties sur les dépenses avant qu'elles soient engagées, est versée aux dates et de la manière que précise le ministre.

Entente de responsabilisation

41 (1) La réception de fonds est subordonnée à la conclusion par chaque société d'une entente de responsabilisation avec le ministre.

Durée

(2) La durée de l'entente de responsabilisation correspond à au moins un des exercices du ministère. Elle peut correspondre à une période plus longue, selon ce que précise le ministre.

Approbation du conseil

(3) Le conseil d'administration de la société doit approuver l'entente de responsabilisation avant que la société ne conclue l'entente.

Contenu

(4) L'entente de responsabilisation doit comprendre une exigence selon laquelle la société respecte son enveloppe budgétaire approuvée et toute autre condition prescrite.

Absence d'entente

(5) Si le ministre et une société n'arrivent pas à se mettre d'accord sur les conditions d'une entente de responsabilisation avant la date établie par le ministre, ce dernier peut fixer les conditions de l'entente.

DIRECTIVES ET ORDRES DE CONFORMITÉ (SOCIÉTÉS)**Directives du ministre**

42 (1) Le ministre peut donner des directives aux sociétés, y compris des directives à l'égard de questions financières et administratives et de l'exercice des fonctions que leur attribue le paragraphe 35 (1).

Caractère contraignant des directives

(2) Les sociétés doivent se conformer aux directives qui leur sont données en vertu du présent article.

Portée générale ou particulière

(3) Les directives peuvent avoir une portée générale ou particulière.

Primauté du droit

(4) Il est entendu que, en cas d'incompatibilité entre une directive donnée en vertu du présent article et une disposition de toute loi applicable ou règle de toute loi applicable, la disposition de la loi ou de la règle l'emporte.

Mise à la disposition du public

(5) Le ministre met chaque directive donnée en vertu du présent article à la disposition du public.

Non-application de la *Loi de 2006 sur la législation*

(6) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux directives données en vertu du présent article.

Ordre de conformité**Motifs**

43 (1) Le directeur peut donner un ordre visé au paragraphe (2) s'il croit, en se fondant sur des motifs raisonnables, qu'une société ne s'est pas conformée à ce qui suit :

- a) la présente loi ou les règlements;
- b) une condition dont est assorti l'acte de désignation de la société en vertu du paragraphe 34 (2);
- c) une entente de responsabilisation conclue en vertu de l'article 41;
- d) une directive donnée en vertu de l'article 42.

Ordre

(2) Pour l'application du paragraphe (1), le directeur peut donner un ordre à la société lui enjoignant de prendre l'une ou l'autre des mesures suivantes ou les deux :

1. Faire ou s'abstenir de faire quoi que ce soit pour assurer la conformité dans le délai précisé dans l'ordre.
2. Préparer, présenter et mettre en application, dans le délai précisé dans l'ordre, un plan pour assurer la conformité.

Caractère contraignant d'un ordre

(3) La société à laquelle un ordre est signifié en vertu du présent article doit s'y conformer dans le délai qui y est précisé.

Mise à la disposition du public

(4) Le ministre :

- a) peut mettre à la disposition du public les ordres donnés en vertu du présent article;
- b) doit mettre à la disposition du public un sommaire de chaque ordre donné en vertu du présent article conformément aux règlements.

POUVOIRS DU MINISTRE**Pouvoirs du ministre****Motifs**

44 (1) Le ministre peut exercer un pouvoir prévu au paragraphe (3) si, selon le cas :

- a) une société ne s'est pas conformée à un ordre de conformité donné en vertu de l'article 43 dans le délai précisé dans l'ordre;
- b) il est d'avis qu'il est dans l'intérêt public de le faire.

Intérêt public

(2) Lorsqu'il décide si l'exercice d'un pouvoir est dans l'intérêt public en application de l'alinéa (1) b), le ministre peut tenir compte de toute question qu'il estime pertinente, notamment :

- a) la qualité de la gestion financière et opérationnelle de la société;
- b) les capacités de la société en ce qui concerne sa gouvernance;
- c) la qualité des services fournis par la société.

Pouvoirs

(3) Pour l'application du paragraphe (1), le ministre peut prendre une ou plusieurs des mesures suivantes :

1. Ordonner que la société cesse une activité particulière ou prenne d'autres mesures correctives dans le délai précisé dans l'ordre.
2. Assortir l'acte de désignation de la société visé au paragraphe 34 (1) de conditions ou modifier les conditions existantes.
3. Suspendre, modifier ou révoquer la désignation de la société.
4. Nommer des membres du conseil d'administration de la société dans l'un ou l'autre des cas suivants :
 - i. des postes sont vacants au sein du conseil,

- ii. en l'absence de postes vacants, la nomination d'un membre vise à désigner ce membre à la présidence du conseil en vertu de la disposition 7.

5. Destituer des membres du conseil et en nommer d'autres.
6. Désigner un président du conseil en cas de vacance du poste.
7. Désigner un autre président du conseil à la place du président en exercice.
8. Nommer un superviseur chargé d'administrer et de gérer les affaires et les activités de la société.

Avis de proposition

- (4) Si le ministre propose de prendre l'une ou l'autre des mesures prévues au paragraphe (3), il donne un avis motivé, par écrit, de sa proposition à la société.

Mesures immédiates

- (5) Le paragraphe (4) ne s'applique pas dans l'un ou l'autre des cas suivants :
- a) le ministre est d'avis que la société a, par sa conduite, acquiescé à sa proposition;
 - b) la société a consenti à la proposition;
 - c) le conseil d'administration ne compte pas suffisamment de membres pour constituer le quorum.

Droit de présenter des observations

- (6) La société qui reçoit l'avis prévu au paragraphe (4) peut présenter des observations écrites au ministre dans les 14 jours suivant la réception de l'avis ou dans l'autre délai précisé dans l'avis.

Décision du ministre

- (7) Après avoir étudié les observations écrites de la société ou, en l'absence d'observations, à l'expiration du délai prévu au paragraphe (6), le ministre peut donner suite à sa proposition. Il doit alors donner un avis motivé, par écrit, de sa décision à la société.

Décision définitive

- (8) La décision du ministre est définitive.

Mesure provisoire

- (9) Malgré le paragraphe (4), le ministre peut exercer provisoirement les pouvoirs énoncés au paragraphe (3) si, à son avis, cela est nécessaire pour écarter un danger immédiat pour l'intérêt public ou la santé, la sécurité ou le bien-être d'une personne.

Avis

- (10) Le ministre donne à la société un avis motivé, par écrit, de son exercice provisoire du pouvoir.

Décision définitive

- (11) La décision du ministre d'exercer le pouvoir de façon provisoire est définitive.

Nomination des membres du conseil

Membres

- 45 (1)** Si le ministre nomme des membres du conseil d'administration d'une société en vertu de la disposition 4 ou 5 du paragraphe 44 (3), les règles suivantes s'appliquent :

1. Le ministre veille à ce que ces membres ne constituent pas la majorité des membres devant siéger au conseil.
2. Ces membres sont nommés à titre amovible et occupent leur charge pour un mandat d'une durée d'au plus deux ans.
3. Ces membres ne peuvent pas siéger à titre de membres nommés pendant plus de deux années consécutives.
4. Ces membres ont les mêmes droits et responsabilités que les membres élus au conseil d'administration.

Président

- (2) Si le ministre désigne le président du conseil d'administration en vertu de la disposition 6 ou 7 du paragraphe 44 (3), les règles suivantes s'appliquent :

1. Le président peut être désigné parmi les membres du conseil, y compris les membres nommés par le ministre en vertu de la disposition 4 ou 5 du paragraphe 44 (3).
2. Le président occupe sa charge à titre amovible pour une période d'au plus deux ans.
3. Le président ne peut pas occuper sa charge pendant plus de deux années consécutives.

4. En cas de désignation en vertu de la disposition 7 du paragraphe 44 (3), l'ancien président peut demeurer membre du conseil.

Nomination d'un superviseur

46 (1) Le présent article s'applique si un superviseur est nommé pour administrer et gérer les affaires et les activités d'une société en vertu de la disposition 8 du paragraphe 44 (3).

Durée du mandat

(2) Le mandat du superviseur est valide pendant une période d'au plus un an sans le consentement de la société. Le lieutenant-gouverneur en conseil peut toutefois le proroger à tout moment.

Pouvoirs et fonctions du superviseur

(3) Sauf disposition contraire de l'acte de nomination, le superviseur a le droit exclusif d'exercer l'ensemble des pouvoirs et fonctions de la société ainsi que ceux de ses membres, de ses administrateurs, de son directeur général et de ses dirigeants.

Idem

(4) Le ministre peut, dans l'acte de nomination, préciser les pouvoirs et fonctions du superviseur ainsi que les conditions les régissant.

Exemples de pouvoirs et fonctions

(5) Sans préjudice de la portée générale du paragraphe (4), le superviseur peut notamment exercer les pouvoirs et fonctions suivants :

1. Administrer et gérer les affaires et les activités de la société.
2. Conclure des contrats au nom de la société.
3. Prendre des dispositions pour faire ouvrir des comptes bancaires au nom de la société.
4. Autoriser des personnes à signer des documents, notamment financiers, au nom de la société.
5. Engager ou congédier les employés de la société.
6. Adopter, modifier ou abroger les règlements administratifs de la société.
7. Passer et déposer des documents au nom de la société, y compris les requêtes présentées en vertu de la *Loi sur les personnes morales* et les avis et rapports déposés en application de la *Loi sur les renseignements exigés des personnes morales*.

Maintien des pouvoirs et fonctions de la société

(6) Si l'acte de nomination précise que la société ou ses membres, ses administrateurs, son directeur général et ses dirigeants continuent d'exercer des pouvoirs ou fonctions pendant le mandat du superviseur, l'exercice de ces pouvoirs ou fonctions par la société ou par ces personnes pendant cette période n'est valide que s'il est approuvé par écrit par le superviseur.

Aide

(7) Le superviseur peut, par voie de requête, demander à la Cour supérieure de justice de rendre une ordonnance enjoignant à un agent de la paix de l'aider à occuper les locaux d'une société.

Rapport au ministre

(8) Le superviseur présente au ministre les rapports que celui-ci exige.

Directives du ministre

(9) Le ministre peut donner au superviseur des directives en ce qui concerne toute question relevant de la compétence du superviseur. Le superviseur est tenu d'y donner suite.

Immunité de la Couronne

(10) Sont irrecevables les instances, autres que celles visées au paragraphe (12), introduites contre la Couronne ou le ministre à l'égard de la nomination du superviseur ou d'un acte commis de bonne foi par le superviseur dans l'exercice effectif ou censé tel des pouvoirs ou fonctions que lui attribuent la présente loi ou les règlements, ou pour une négligence ou un manquement qu'il aurait commis dans l'exercice de bonne foi d'une telle fonction ou d'un tel pouvoir.

Immunité du superviseur

(11) Sont irrecevables les actions ou autres instances introduites contre le superviseur pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel des pouvoirs ou fonctions que lui attribuent la présente loi ou les règlements, ou pour une négligence ou un manquement qu'il aurait commis dans l'exercice de bonne foi d'une telle fonction ou d'un tel pouvoir.

Responsabilité de la Couronne

(12) Malgré les paragraphes 5 (2) et (4) de la *Loi sur les instances introduites contre la Couronne*, le paragraphe (11) du présent article ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par un superviseur.

Incidence sur le conseil

(13) À la nomination du superviseur, les membres du conseil de la société cessent d'occuper leur charge, sauf disposition contraire de l'acte de nomination.

Idem

(14) Pendant le mandat du superviseur, les pouvoirs des membres du conseil qui continuent d'occuper leur charge sont suspendus, sauf disposition contraire de l'acte de nomination.

Immunité

(15) Sont irrecevables les actions ou autres instances introduites contre un membre ou un ancien membre du conseil pour tout acte accompli par le superviseur après la destitution du membre prévue au paragraphe (13) ou pendant la suspension de ses pouvoirs en application du paragraphe (14).

RESTRUCTURATION**Fusion de sociétés****Proposition de fusion**

47 (1) Deux sociétés ou plus qui se proposent de fusionner et d'être prorogées en une seule et même société doivent présenter au ministre une proposition de fusion qui contient les renseignements précisés par le ministre sous la forme qu'il précise.

Approbation de la proposition par le ministre

(2) Le ministre peut modifier la proposition de fusion et l'approuver en tout ou en partie.

Convention de fusion

(3) Les sociétés ne doivent pas conclure une convention de fusion en vertu du paragraphe 113 (2) de la *Loi sur les personnes morales* tant qu'elles n'ont pas reçu l'approbation du ministre prévue au paragraphe (2). La convention de fusion doit être compatible avec la proposition de fusion.

Approbation de la requête en vue de la fusion par le ministre

(4) Les sociétés ne doivent pas présenter une requête en vue de leur fusion en vertu du paragraphe 113 (4) de la *Loi sur les personnes morales* sans avoir reçu l'approbation préalable du ministre.

Directives du ministre

(5) Le ministre peut, à tout moment, donner des directives aux sociétés en ce qui concerne la fusion proposée. Il peut notamment exiger qu'une société lui fournisse des renseignements ou des documents, auquel cas la société est tenue de s'y conformer.

Restructuration par arrêté du ministre

48 (1) S'il estime qu'il est dans l'intérêt public de le faire, notamment pour améliorer l'efficacité, l'efficacéité et l'uniformité des services, le ministre peut, par arrêté, ordonner à une société de prendre l'une ou l'autre des mesures suivantes à la date indiquée dans l'arrêté ou après cette date :

1. Fusionner avec une ou plusieurs autres sociétés.
2. Transférer tout ou partie de ses activités à une ou plusieurs autres sociétés.
3. Cesser ses activités, les dissoudre ou les liquider.
4. Accomplir ou s'abstenir d'accomplir un acte nécessaire afin de prendre les mesures visées aux dispositions 1 à 3.

Directives du ministre

(2) Le ministre peut, dans l'arrêté, inclure des directives pour que les renseignements suivants lui soient fournis dans le délai indiqué dans l'arrêté :

1. Le plan de mise en application de l'arrêté, notamment en ce qui concerne le transfert d'éléments d'actif et de passif, de droits et d'obligations ainsi que la mutation d'employés.
2. Le calendrier de mise en application de l'arrêté.
3. Le budget proposé en ce qui concerne la mise en application de l'arrêté.

4. Des renseignements à propos de l'état d'avancement de la mise en application de l'arrêté.
5. Dans le cas d'un arrêté pris en vertu de la disposition 1 du paragraphe (1), une convention de fusion à soumettre à son approbation.
6. Des renseignements à propos de toute autre question qu'il a précisée.

Avis de proposition d'arrêté

(3) Si le ministre propose de prendre un arrêté en vertu du paragraphe (1), il donne un avis écrit de la proposition d'arrêté et des éventuelles directives que l'arrêté comprendra, ainsi que les motifs à l'appui, à chaque société concernée.

Avis aux employés et aux agents négociateurs

(4) La société qui reçoit l'avis visé au paragraphe (3) en donne une copie aux employés concernés et à leurs agents négociateurs.

Droit de présenter des observations

(5) La société peut présenter des observations écrites au ministre dans les 30 jours suivant la réception de l'avis ou dans l'autre délai précisé dans l'avis. Ces observations peuvent porter sur les directives comprises dans l'arrêté, mais pas sur l'arrêté lui-même.

Décision du ministre à propos des directives

(6) Après avoir étudié les observations écrites de la société ou, en l'absence d'observations, à l'expiration du délai prévu au paragraphe (5), le ministre peut confirmer, révoquer ou modifier les directives comprises dans l'arrêté.

Avis

(7) Le ministre remet une copie de l'arrêté à chaque société concernée.

Obligation de la société

(8) La société qui reçoit un arrêté en application du paragraphe (7) :

- a) d'une part, donne avis de l'arrêté aux employés concernés, à leurs agents négociateurs et aux autres personnes ou entités dont les contrats sont touchés par l'arrêté;
- b) d'autre part, met l'arrêté à la disposition du public.

Modifications supplémentaires

(9) Le ministre peut, à tout moment, révoquer ou modifier un arrêté pris en vertu du présent article, y compris les directives qu'il comprend, auquel cas les paragraphes (3) à (8) s'appliquent avec les adaptations nécessaires.

Caractère contraignant de l'arrêté

(10) La société qui fait l'objet d'un arrêté pris en vertu du présent article doit s'y conformer.

Pouvoirs nécessaires

(11) La société qui fait l'objet d'un arrêté pris en vertu du présent article est réputée avoir les pouvoirs nécessaires pour se conformer à l'arrêté malgré ce qui suit :

1. Toute loi ou tout règlement.
2. Tout autre acte ayant trait à la gouvernance de la société, notamment la *Loi sur les personnes morales*, des lettres patentes, des lettres patentes supplémentaires ou des règlements administratifs.

Non-application de la *Loi de 2006 sur la législation*

(12) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux arrêtés pris en vertu du présent article.

Approbation de la convention de fusion par le ministre

(13) Lorsque la société lui fournit une convention de fusion conformément aux directives données en application de la disposition 5 du paragraphe (2), le ministre peut la modifier et l'approuver en tout ou en partie.

Approbation par le ministre de la requête en vue de la fusion

(14) La société ne doit pas présenter une requête en vue de la fusion en vertu du paragraphe 113 (4) de la *Loi sur les personnes morales* sans avoir reçu l'approbation préalable du ministre.

Nomination d'un superviseur en vue de la restructuration

49 (1) Le ministre peut nommer un superviseur chargé de mettre en application ou de faciliter la mise en application d'un arrêté pris en vertu de l'article 48 si, selon le cas :

- a) une société concernée ne s'est pas conformée à l'arrêté;

- b) il est d'avis qu'il existe des retards injustifiés, une absence de progrès ou un désaccord entre ou parmi les parties concernées qui empêche ou empêchera vraisemblablement une société concernée de se conformer à l'arrêté.

Application d'autres dispositions

(2) Si le ministre a l'intention de nommer un superviseur en vertu du paragraphe (1), les paragraphes 44 (4) à (8) et les paragraphes 46 (2) à (15) s'appliquent avec les adaptations nécessaires.

Caractère contraignant des décisions

(3) Les membres du conseil d'administration d'une société concernée doivent se conformer aux décisions d'un superviseur nommé en vertu du paragraphe (1) pour faciliter la mise en application d'un arrêté pris en vertu de l'article 48 en ce qui concerne les questions relevant de la compétence du superviseur.

Incompatibilité avec la *Loi sur les personnes morales* et d'autres textes

50 Les articles 44 à 49 l'emportent sur les dispositions incompatibles de ce qui suit :

1. La *Loi sur les personnes morales* ou les règlements pris en vertu de cette loi.
2. Les lettres patentes, les lettres patentes supplémentaires ou les règlements administratifs d'une société.

Transfert de biens détenus à des fins de bienfaisance

51 (1) Si un arrêté pris en vertu de l'article 48 enjoint à une société de transférer des biens qu'elle détient à des fins de bienfaisance, les dons, fiducies, legs et cessions de biens qui font partie des biens visés par le transfert sont réputés faits ou donnés au destinataire.

Fin déterminée

(2) Si un testament, un acte ou un autre document par lequel un don, une fiducie, un legs ou une cession mentionnés au paragraphe (1) est fait ou donné indique que les biens visés par le transfert doivent être utilisés à une fin déterminée, le destinataire du transfert les utilise à cette fin.

Champ d'application

(3) Les paragraphes (1) et (2) s'appliquent, que le testament, l'acte ou le document par lequel est fait ou donné le don, la fiducie, le legs ou la cession soit passé avant ou après le jour de l'entrée en vigueur du présent article.

Aucune indemnité

52 (1) Malgré toute autre loi, aucune personne ou entité, y compris une société, n'a le droit d'être indemnisée pour une perte ou des dommages résultant d'une mesure directe ou indirecte que prend, en application de la présente loi, le ministre ou un superviseur nommé en vertu de l'article 44 ou 49, notamment la prise d'un arrêté en vertu de l'article 48.

Idem, transfert de biens

(2) Malgré toute autre loi, aucune personne ou entité, notamment une société, n'a le droit d'être indemnisée pour une perte ou des dommages, notamment une perte de jouissance, une perte de recettes et une perte de profits, résultant du transfert de biens en application d'un arrêté pris en vertu de l'article 48.

Aucune expropriation

(3) Aucune disposition de la présente partie ni aucune mesure prise ou non prise conformément à la présente partie ne constitue une expropriation ou un effet préjudiciable pour l'application de la *Loi sur l'expropriation* ou par ailleurs en droit.

NOMINATIONS ET DÉLÉGATIONS DE POUVOIRS

Directeurs et superviseurs de programme

Nomination d'un directeur

53 (1) Le ministre peut nommer un directeur qui est chargé d'exercer tout ou partie des pouvoirs et fonctions que lui attribuent la présente loi et les règlements.

Nomination d'un superviseur de programme

(2) Le ministre peut nommer un superviseur de programme pour exercer tout ou partie des pouvoirs et fonctions que lui attribuent la présente loi et les règlements.

Conditions précisées

(3) Le ministre peut préciser dans l'acte de nomination établi en vertu du présent article les conditions ou restrictions applicables.

Rémunération et indemnités

(4) Le ministre fixe la rémunération et les indemnités de la personne nommée en vertu du présent article qui n'est pas un fonctionnaire employé en application de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario*. Ces sommes sont prélevées sur les crédits affectés à cette fin par la Législature.

Fonctions du directeur

54 (1) Le directeur exerce les pouvoirs et fonctions d'une société dans les régions qui ne comptent pas de société.

Pouvoirs du directeur local

(2) Lorsqu'il exerce les pouvoirs et fonctions d'une société en application du paragraphe (1), le directeur possède tous les pouvoirs d'un directeur local.

Délégation par le ministre

55 (1) Le ministre peut déléguer à toute personne ou catégorie de personnes les pouvoirs ou fonctions que la présente loi lui attribue ou qu'elle attribue à un directeur, à un superviseur de programme ou à un employé au ministère.

Conditions et autres

(2) La délégation doit être faite par écrit et être assortie des restrictions, conditions et exigences énoncées dans l'acte de délégation.

Actes scellés et contrats

(3) L'article 6 de la *Loi sur le Conseil exécutif* ne s'applique pas à un acte scellé ou à un contrat passé en application d'une délégation faite en vertu du présent article.

RAPPORTS ET RENSEIGNEMENTS**Rapports et renseignements fournis au ministre**

56 Chaque fournisseur de services et chaque organisme responsable :

- a) présente au ministre les rapports prescrits et lui fournit les renseignements prescrits, y compris des renseignements personnels, sous la forme et aux intervalles prescrits;
- b) présente un rapport au ministre et lui fournit des renseignements, y compris des renseignements personnels, lorsque le ministre le demande.

Rapports et renseignements fournis aux entités prescrites

57 Chaque fournisseur de services et chaque organisme responsable fournit aux entités prescrites, de la manière prescrite, les rapports prescrits et les renseignements prescrits.

Renseignements mis à la disposition du public

58 Chaque fournisseur de services et chaque organisme responsable met à la disposition du public, de la manière prescrite, les renseignements prescrits.

INSPECTIONS PAR LE SUPERVISEUR DE PROGRAMME**Inspection par le superviseur de programme sans mandat**

59 (1) Afin de s'assurer de la conformité à la présente loi, aux règlements et aux directives données en vertu de la présente loi, le superviseur de programme peut, sans mandat ni préavis, entrer à toute heure raisonnable dans les locaux suivants pour y effectuer une inspection :

1. Les locaux où un service est fourni sous le régime de la présente loi.
2. Les locaux où un organisme responsable exerce une fonction visée au paragraphe 30 (5).
3. Les locaux commerciaux d'un fournisseur de services.
4. Les locaux commerciaux d'un organisme responsable.

Restriction : logement

(2) Le pouvoir d'entrer dans un local visé au paragraphe (1) et de l'inspecter ne doit pas être exercé dans une pièce ou un endroit qui sert effectivement de logement, sauf si l'occupant y consent.

Pièces d'identité

(3) Le superviseur de programme qui effectue une inspection présente, sur demande, les pièces d'identité suffisantes.

Application d'autres dispositions

(4) Les articles 276 (pouvoirs de l'inspecteur) et 279 (admissibilité de certains documents) s'appliquent, avec les adaptations nécessaires, à l'égard d'une inspection effectuée en vertu du présent article.

Inspection par le superviseur de programme avec mandat

60 (1) Le superviseur de programme peut, sans préavis, demander à un juge de lui décerner un mandat en vertu du présent article.

Délivrance du mandat

(2) Un juge peut décerner un mandat autorisant le superviseur de programme qui y est nommé à entrer dans le local qui y est précisé et à exercer l'un ou l'autre des pouvoirs mentionnés au paragraphe 276 (1) s'il est convaincu, sur la foi d'une dénonciation faite sous serment ou d'une affirmation solennelle :

- a) que le local est visé au paragraphe 59 (1);
- b) que dans le cas d'un local ne servant pas de logement :
 - (i) soit le superviseur de programme s'est vu empêché d'exercer le droit d'entrée prévu à l'article 59 ou un pouvoir prévu au paragraphe 276 (1),
 - (ii) soit il existe des motifs raisonnables de croire que le superviseur de programme se verra empêché d'exercer le droit d'entrée prévu à l'article 59 ou un pouvoir prévu au paragraphe 276 (1);
- c) dans le cas d'un local qui sert de logement, selon le cas :
 - (i) que, à la fois :
 - (A) le superviseur de programme a des motifs raisonnables de croire qu'un service fourni, ou la manière dont il est fourni, cause ou causera vraisemblablement un préjudice en ce qui concerne la santé, la sécurité ou le bien-être d'une personne en raison de la non-conformité à la présente loi, aux règlements ou aux directives données en vertu de la présente loi,
 - (B) le superviseur de programme a besoin d'exercer les pouvoirs mentionnés au paragraphe 276 (1) pour pouvoir inspecter le service fourni ou la manière dont il est fourni,
 - (ii) qu'il existe un motif prescrit pour l'application du présent sous-alinéa.

Aide d'experts

(3) Le mandat peut autoriser des personnes qui possèdent des connaissances particulières, spécialisées ou professionnelles à accompagner le superviseur de programme et à l'aider à exécuter le mandat.

Expiration du mandat

(4) Le mandat décerné en vertu du présent article comporte une date d'expiration, qui ne doit pas tomber plus de 30 jours après le jour où le mandat a été décerné.

Prorogation du délai

(5) Un juge peut reporter la date d'expiration d'un mandat décerné en vertu du présent article d'au plus 30 jours, sur demande sans préavis du superviseur de programme nommé dans le mandat.

Recours à la force

(6) Le superviseur de programme nommé dans le mandat décerné en vertu du présent article peut recourir à toute la force nécessaire pour exécuter le mandat et peut se faire aider d'agents de la paix.

Heures d'exécution

(7) Sauf indication contraire, le mandat décerné en vertu du présent article ne peut être exécuté qu'entre 8 et 20 heures.

Autres questions

(8) Les paragraphes 276 (2) à (7) et l'article 279 s'appliquent, avec les adaptations nécessaires, à l'égard de l'exercice des pouvoirs mentionnés au paragraphe (2) sous l'autorité d'un mandat décerné en vertu du présent article.

Définition

(9) La définition qui suit s'applique au présent article.

«juge» Juge provincial ou juge de paix.

Rapport d'inspection

61 (1) À l'issue de l'inspection, le superviseur de programme rédige un rapport d'inspection et en remet une copie aux personnes suivantes :

- a) le directeur;
- b) le fournisseur de services ou l'organisme responsable;
- c) toute autre personne prescrite.

Documentation : non-conformité

(2) S'il conclut que le fournisseur de services ou l'organisme responsable ne s'est pas conformé à une exigence de la présente loi, aux règlements ou à une directive donnée en vertu de la présente loi, le superviseur de programme documente la non-conformité dans son rapport d'inspection.

EXAMEN PAR LE COMITÉ CONSULTATIF SUR LES PLACEMENTS EN ÉTABLISSEMENT**Définitions**

62 Les définitions qui suivent s'appliquent aux articles 63 à 66.

«besoin particulier» Besoin qui est soit lié à une déficience intellectuelle, à une déficience du comportement ou à une autre déficience, notamment affective, physique ou mentale, soit causé par une telle déficience. («special need»)

«comité consultatif» Comité consultatif sur les placements en établissement constitué en vertu du paragraphe 63 (1). («advisory committee»)

«foyer» S'entend :

- a) soit d'un foyer pour enfants, à l'exclusion d'une maternité, que fait fonctionner le ministre ou qui fonctionne en vertu d'un permis délivré à cet effet sous le régime de la partie IX (Permis d'établissement) et où des soins en établissement peuvent être fournis à 10 enfants ou plus à la fois;
- b) soit d'un bâtiment, d'un ensemble de bâtiments ou d'une partie d'un bâtiment que désigne le directeur et où des soins en établissement peuvent être fournis à 10 enfants ou plus à la fois. («institution»)

«placement en établissement» Sont exclus :

- a) le placement effectué sous le régime de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou de la partie VI (Justice pour les adolescents);
- b) le placement dans un programme de traitement en milieu fermé sous le régime de la partie VII (Mesures extraordinaires);
- c) le placement auprès d'une personne qui n'est ni un fournisseur de services ni un parent de famille d'accueil. («residential placement»)

Comités consultatifs sur les placements en établissement

63 (1) Le ministre peut constituer des comités consultatifs sur les placements en établissement et il doit établir le territoire de compétence de chaque comité consultatif.

Composition

(2) Chaque comité consultatif sur les placements en établissement comprend les personnes que le ministre estime appropriées, qui peuvent comprendre :

- a) des personnes intervenant dans la prestation de services;
- b) des personnes bien renseignées et qui ont manifesté un intérêt pour le bien-être des enfants;
- c) un représentant du ministère;
- d) si le ministre le désire, un représentant d'une bande ou d'une communauté inuite, métisse ou de Premières Nations.

Indemnités versées aux membres, embauche de personnel

(3) Le ministre peut verser des indemnités aux membres d'un comité consultatif et les rembourser de leurs frais de déplacement raisonnables. Il peut autoriser un comité consultatif à engager du personnel de soutien.

Fonctions du comité consultatif

(4) Il incombe au comité consultatif de conseiller, d'informer et d'aider les parents, les enfants et les fournisseurs de services en ce qui concerne les soins en établissement qui sont disponibles et appropriés, et les solutions de rechange qui existent. Il doit également effectuer les examens prévus à l'article 64, désigner des personnes pour l'application du paragraphe 75 (11) (contact avec un enfant dans le cadre d'une entente relative à des soins temporaires) et exercer les autres fonctions prescrites.

Rapports au ministre

(5) Le comité consultatif présente un rapport de ses activités au ministre chaque année et sur demande du ministre.

Examen par le comité consultatif**Examen obligatoire**

64 (1) Le comité consultatif examine :

- a) chaque placement en établissement, dans un foyer, d'un enfant qui réside dans son territoire de compétence, si le placement doit durer ou dure effectivement 90 jours ou plus :
 - (i) le plus tôt possible, mais au plus tard dans les 45 jours du jour du placement de l'enfant dans le foyer,
 - (ii) à moins que le placement ne fasse l'objet d'un examen en vertu du sous-alinéa (i), dans les 12 mois de sa constitution ou au cours du délai plus long que le ministre autorise,
 - (iii) pendant la durée du placement, au moins une fois pendant chaque période de neuf mois qui fait suite à l'examen prévu au sous-alinéa (i) ou (ii);
- b) chaque placement en établissement d'un enfant qui s'oppose au placement et qui réside dans son territoire de compétence :
 - (i) au cours de la semaine qui suit le 14^e jour du placement de l'enfant,
 - (ii) pendant la durée du placement, au moins une fois pendant chaque période de neuf mois qui fait suite à l'examen prévu au sous-alinéa (i);
- c) un placement en établissement qui existe déjà ou qui est projeté et que le ministre lui renvoie, dans les 30 jours suivant le renvoi.

Examen facultatif

(2) À la demande d'une personne ou de sa propre initiative, le comité consultatif peut, à tout moment, examiner ou réexaminer le placement en établissement, qui existe déjà ou qui est projeté, d'un enfant qui réside dans son territoire de compétence.

Examen informel

(3) Le comité consultatif effectue son examen de manière informelle et à huis clos. Il peut notamment :

- a) rencontrer l'enfant, les membres de sa famille et leurs représentants, et leur poser des questions;
- b) rencontrer des personnes intervenant dans la prestation de services ainsi que d'autres personnes s'intéressant à cette question ou susceptibles de posséder des renseignements qui l'aideraient et leur poser des questions;
- c) examiner les documents et les rapports qui lui sont présentés;
- d) examiner les dossiers relatifs à l'enfant et aux membres de sa famille qui lui sont divulgués.

Collaboration du fournisseur de services

(4) Le fournisseur de services aide le comité consultatif, à sa demande, à effectuer son examen et lui apporte sa collaboration à cette fin.

Éléments à examiner

(5) Lorsqu'il effectue son examen, le comité consultatif :

- a) établit si l'enfant a un besoin particulier;
- b) tient compte de l'opinion et des désirs de l'enfant, qui doivent être dûment pris en considération eu égard à son âge et à son degré de maturité;
- c) étudie les programmes disponibles dans l'établissement où l'enfant est placé, ou dans celui où il est proposé qu'il soit placé, et établit si un de ces programmes est susceptible d'être bénéfique pour l'enfant;
- d) étudie si le placement en établissement, ou celui qui est proposé, convient à l'enfant dans les circonstances;
- e) précise une solution de rechange, s'il estime qu'une solution de rechange moins restrictive que le placement en établissement conviendrait mieux à l'enfant dans les circonstances;
- f) étudie l'importance de la continuité en ce qui concerne les soins à fournir à l'enfant et les conséquences que peut avoir sur lui toute interruption de cette continuité;
- g) dans le cas d'un enfant inuit, métis ou de Premières Nations, tient également compte de l'importance de préserver l'identité culturelle de l'enfant et ses liens avec la communauté en reconnaissance du caractère unique que revêtent la culture, le patrimoine et les traditions propres aux Premières Nations, aux Inuits et aux Métis.

Recommandations du comité consultatif

Personnes à informer

(6) Dès qu'il a terminé son examen, le comité consultatif communique ses recommandations aux personnes suivantes :

1. Le fournisseur de services.
2. Le représentant de l'enfant, le cas échéant.

3. Un parent de l'enfant ou, si l'enfant est confié à la garde légitime d'une société, la société.
4. L'enfant, dans un langage qu'il peut comprendre.
5. Dans le cas d'un enfant inuit, métis ou de Premières Nations, les personnes visées aux dispositions 1, 2, 3 et 4 et un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Enfant informé de son droit à demander la révision du placement en établissement

(2) Le comité consultatif qui effectue un examen informe l'enfant du droit que lui accorde l'article 66 de demander la révision de son placement.

Rapport présenté au ministre

(3) Dans les 30 jours suivant la fin de son examen, le comité consultatif présente un rapport sur ses conclusions et recommandations au ministre.

Recommandation : service moins restrictif

(4) Si le comité consultatif est d'avis que la prestation d'un service moins restrictif qu'un placement en établissement conviendrait mieux à l'enfant, il recommande la prestation d'un tel service dans le rapport visé au paragraphe (3).

Révision par la Commission

Demande de révision présentée à la Commission

66 (1) L'enfant qui fait actuellement l'objet d'un placement en établissement auquel il s'oppose peut demander à la Commission de décider s'il doit rester à l'établissement où il se trouve ou être placé ailleurs, si le placement a fait l'objet d'un examen par le comité consultatif en application de l'article 64 et que, selon le cas :

- a) l'enfant n'est pas satisfait des recommandations du comité consultatif;
- b) les recommandations du comité consultatif n'ont pas été suivies.

Révision par la Commission

(2) La Commission révisé la demande présentée en vertu du paragraphe (1). Elle peut tenir une audience à cet effet.

Avis d'audience

(3) Dans les 10 jours suivant la réception de la demande de l'enfant, la Commission informe l'enfant de sa décision de tenir une audience ou non.

Parties

(4) Sont parties à l'audience :

- a) l'enfant;
- b) un parent de l'enfant ou, si l'enfant est confié à la garde légitime d'une société, la société;
- c) dans le cas d'un enfant inuit, métis ou de Premières Nations, les personnes visées aux alinéas a) et b) et un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient;
- d) les personnes que la Commission précise.

Délai

(5) La Commission termine sa révision et prend une décision dans les 30 jours suivant la réception de la demande de l'enfant, sauf si :

- a) elle tient une audience relativement à la demande;
- b) les parties acceptent que la Commission rende sa décision dans un délai plus long.

Décision de la Commission

(6) Après avoir effectué la révision prévue au paragraphe (2), la Commission peut, selon le cas :

- a) ordonner que l'enfant soit transféré dans un autre établissement, si elle est convaincue que cet autre placement est possible;
- b) ordonner que l'enfant obtienne son congé;
- c) confirmer le placement en établissement en cours.

INFRACTIONS

Infractions

67 (1) Est coupable d'une infraction la personne ou l'entité qui :

- a) contrevient à l'article 56 (rapports et renseignements);
- b) contrevient à l'article 57 (rapports et renseignements fournis aux entités prescrites);
- c) contrevient à l'article 58 (renseignements mis à la disposition du public);
- d) donne sciemment de faux renseignements dans une déclaration, un rapport ou un état exigés par la présente partie ou les règlements.

Peine

(2) La personne ou l'entité qui est déclarée coupable de l'infraction prévue au paragraphe (1) est passible d'une amende d'au plus 5 000 \$.

Infraction : entrave au travail d'un superviseur de programme

(3) Est coupable d'une infraction la personne qui gêne ou entrave le travail du superviseur de programme qui effectue une inspection en vertu de la présente partie ou qui l'empêche de quelque autre façon d'exercer les pouvoirs ou fonctions que lui attribue la présente partie.

Peine

(4) La personne qui est déclarée coupable de l'infraction prévue au paragraphe (3) est passible d'une amende d'au plus 5 000 \$.

Prescription

(5) Aucune instance relative à une infraction ne peut être introduite en vertu du paragraphe (1) ou (3) plus de deux ans après le jour où les éléments de preuve de l'infraction ont été portés pour la première fois à la connaissance du directeur ou du superviseur de programme.

Administrateurs, dirigeants et employés

(6) Si une personne morale commet une infraction prévue au présent article, l'administrateur, le dirigeant ou l'employé de la personne morale qui a autorisé la commission de l'infraction ou y a participé en est également coupable.

PARTIE IV

SERVICES À L'ENFANCE ET À LA FAMILLE — PREMIÈRES NATIONS, INUITS ET MÉTIS

Règlement : communautés inuites, métisses et de Premières Nations

68 (1) Le ministre peut, par règlement, dresser des listes de communautés inuites, métisses et de Premières Nations pour l'application de la présente loi.

Plus d'une communauté

(2) Le règlement pris en vertu du paragraphe (1) peut énumérer une ou plusieurs communautés comme communautés inuites, métisses ou de Premières Nations.

Consentement des représentants

(3) Avant de prendre un règlement en vertu du paragraphe (1), le ministre doit obtenir le consentement des représentants de la communauté.

Ententes

69 Pour les besoins de la prestation de services, le ministre peut :

- a) conclure des ententes avec des bandes et des communautés inuites, métisses ou de Premières Nations et toute autre partie que les bandes ou les communautés choisissent d'associer à ces ententes;
- b) verser des fonds aux personnes ou entités mentionnées à l'alinéa a) aux termes de ces ententes.

Désignation d'un fournisseur de services aux familles et aux enfants inuits, métis ou de Premières Nations

70 (1) Une bande ou une communauté inuite, métisse ou de Premières Nations peut désigner un organisme comme fournisseur de services aux familles et aux enfants inuits, métis ou de Premières Nations.

Ententes

(2) Si la bande ou la communauté inuite, métisse ou de Premières Nations a désigné un organisme comme fournisseur de services aux familles et aux enfants inuits, métis ou de Premières Nations, le ministre :

- a) doit entamer des négociations, à la demande de la bande ou de la communauté, relativement à la prestation de services par le fournisseur concerné;

- b) peut conclure des ententes avec le fournisseur concerné et, si la bande ou la communauté accepte, avec une autre personne relativement à la prestation de services;
- c) peut désigner le fournisseur concerné, avec son consentement, comme société pour l'application du paragraphe 34 (1).

Subvention : soins conformes aux traditions

71 Si la bande ou la communauté inuite, métisse ou de Premières Nations déclare qu'un enfant inuit, métis ou de Premières Nations reçoit des soins conformes aux traditions, une société ou une entité peut accorder une subvention à la personne qui prend soin de l'enfant.

Consultations avec les bandes et les communautés

72 La société, la personne ou l'entité qui fournit des services ou exerce des pouvoirs sous le régime de la présente loi relativement à des enfants ou à des adolescents inuits, métis ou de Premières Nations consulte régulièrement les bandes et les communautés inuites, métisses ou de Premières Nations au sujet, d'une part, de la prestation de ces services ou de l'exercice de ces pouvoirs et, d'autre part, des questions qui touchent les enfants ou les adolescents, notamment :

- a) le fait d'amener des enfants dans un lieu sûr et le placement d'enfants en établissement;
- b) la prestation de services de soutien aux familles;
- c) l'élaboration de programmes relativement aux soins à fournir aux enfants;
- d) la révision du statut d'un enfant en vertu de la partie V (Protection de l'enfance);
- e) les ententes relatives à des soins temporaires conclues en vertu de la partie V (Protection de l'enfance);
- f) les ententes conclues entre une société et des jeunes de 16 et 17 ans en vertu de la partie V (Protection de l'enfance);
- g) les placements en vue d'une adoption;
- h) la création de foyers d'urgence;
- i) toute autre question prescrite.

Consultations dans des cas précis

73 La société, la personne ou l'entité qui a l'intention, sous le régime de la présente loi, soit de fournir un service prescrit à un enfant ou à un adolescent inuit, métis ou de Premières Nations, soit d'exercer un pouvoir prescrit relativement à un tel enfant ou adolescent, consulte un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant ou l'adolescent appartient, conformément aux règlements.

PARTIE V PROTECTION DE L'ENFANCE INTERPRÉTATION

Interprétation

Définitions

74 (1) Les définitions qui suivent s'appliquent à la présente partie.

«lieu sûr» Famille d'accueil, hôpital, foyer d'une personne qui satisfait aux exigences du paragraphe (4) ou lieu ou catégorie de lieux désignés comme lieux sûrs par le directeur ou le directeur local en vertu de l'article 39, à l'exclusion d'un lieu de détention provisoire ou d'un lieu de garde en milieu ouvert ou en milieu fermé. («place of safety»)

«ordonnance extraprovinciale de protection d'un enfant» Ordonnance provisoire ou définitive rendue par un tribunal d'une autre province ou d'un territoire du Canada, ou d'une autorité législative étrangère prescrite si elle satisfait aux conditions prescrites, conformément à la législation sur le bien-être des enfants de cette province, de ce territoire ou de cette autre autorité législative et confiant un enfant aux soins et à la garde soit d'un organisme chargé du bien-être des enfants, soit de toute autre personne nommée dans l'ordonnance. («extra-provincial child protection order»)

«parent» En ce qui concerne un enfant, s'entend de chacune des personnes suivantes, à l'exclusion toutefois d'un parent de famille d'accueil :

1. Un parent de l'enfant aux termes de l'article 6, 8, 9, 10, 11 ou 13 de la *Loi portant réforme du droit de l'enfance*.
2. Dans le cas d'un enfant conçu par relation sexuelle, tout particulier visé à l'une des dispositions 1 à 5 du paragraphe 7 (2) de la *Loi portant réforme du droit de l'enfance*, à moins qu'il ne soit prouvé par la prépondérance des probabilités que le sperme utilisé pour concevoir l'enfant ne provenait pas du particulier.
3. Le particulier dont le statut en tant que parent de l'enfant a été établi ou reconnu par un tribunal compétent hors de l'Ontario.
4. Dans le cas d'un enfant adopté, un parent de l'enfant comme le prévoit l'article 217 ou 218.

5. Le particulier qui a la garde légitime de l'enfant.

6. Le particulier qui, au cours des 12 mois qui ont précédé l'intervention prévue sous le régime de la présente partie, a manifesté l'intention bien arrêtée de traiter l'enfant comme s'il s'agissait d'un enfant de sa famille ou a reconnu le lien de filiation qui l'unit à l'enfant et a subvenu à ses besoins.

7. Le particulier qui, aux termes d'une entente écrite ou d'une ordonnance d'un tribunal, est tenu de subvenir aux besoins de l'enfant, s'est vu accorder la garde de l'enfant ou possède un droit de visite.

8. Le particulier qui a reconnu le lien de filiation qui l'unit à l'enfant en déposant une déclaration solennelle en vertu de l'article 12 de la *Loi portant réforme du droit de l'enfance*, dans sa version antérieure au jour de l'entrée en vigueur du paragraphe 1 (1) de la *Loi de 2016 sur l'égalité de toutes les familles (modifiant des lois en ce qui concerne la filiation et les enregistrements connexes)*. («parent»)

«preposé à la protection de l'enfance» Le directeur, le directeur local ou une personne qui satisfait aux exigences prescrites et qui est agréée par le directeur ou le directeur local pour l'application de l'article 81 (introduction d'une instance portant sur la protection de l'enfant) et pour d'autres fins prescrites. («child protection worker»)

Enfant ayant besoin de protection

(2) Est un enfant ayant besoin de protection :

a) l'enfant qui a subi des maux physiques infligés par la personne qui en est responsable ou, selon le cas :

- (i) causés par le défaut de cette personne de lui fournir des soins, de subvenir à ses besoins, de le surveiller ou de le protéger convenablement, ou résultant de ce défaut,
- (ii) causés par la négligence habituelle de cette personne pour ce qui est de lui fournir des soins, de subvenir à ses besoins, de le surveiller ou de le protéger, ou résultant de cette négligence;

b) l'enfant qui risque vraisemblablement de subir des maux physiques infligés par la personne qui en est responsable ou, selon le cas :

- (i) causés par le défaut de cette personne de lui fournir des soins, de subvenir à ses besoins, de le surveiller ou de le protéger convenablement, ou résultant de ce défaut,
- (ii) causés par la négligence habituelle de cette personne pour ce qui est de lui fournir des soins, de subvenir à ses besoins, de le surveiller ou de le protéger, ou résultant de cette négligence;

c) l'enfant qui a subi des mauvais traitements d'ordre sexuel ou qui a été exploité sexuellement par la personne qui en est responsable ou par une autre personne si la personne responsable de l'enfant sait ou devrait savoir qu'il existe un risque de mauvais traitements d'ordre sexuel ou d'exploitation sexuelle et qu'elle ne protège pas l'enfant;

d) l'enfant qui risque vraisemblablement de subir des mauvais traitements d'ordre sexuel ou d'être exploité sexuellement dans les circonstances mentionnées à l'alinéa c);

e) l'enfant qui a besoin d'un traitement en vue de guérir, de prévenir ou de soulager des maux physiques ou sa douleur, si son parent ou la personne qui en est responsable ne fournit pas le traitement ou n'y donne pas accès, ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, et que le parent est un mandataire spécial pour l'enfant, le parent refuse ou n'est pas en mesure de donner son consentement à ce traitement au nom de l'enfant, ou n'est pas disponible pour le faire;

f) l'enfant qui a subi des maux affectifs qui se traduisent, selon le cas, par :

- (i) un grave sentiment d'angoisse,
- (ii) un état dépressif grave,
- (iii) un fort repliement sur soi,
- (iv) un comportement autodestructeur ou agressif marqué,
- (v) un important retard dans son développement,

s'il existe des motifs raisonnables de croire que les maux affectifs que l'enfant a subis résultent des actes, du défaut d'agir ou de la négligence habituelle de son parent ou de la personne qui en est responsable;

g) l'enfant qui a subi le type de maux affectifs visés au sous-alinéa f) (i), (ii), (iii), (iv) ou (v), si son parent ou la personne qui en est responsable ne fournit pas des services ou un traitement afin de remédier à ces maux ou de les soulager ou n'y donne pas accès ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, refuse ou n'est pas en mesure de donner son consentement à ce traitement, ou n'est pas disponible pour le faire;

- h) l'enfant qui risque vraisemblablement de subir le type de maux affectifs visés au sous-alinéa f) (i), (ii), (iii), (iv) ou (v) résultant des actes, du défaut d'agir ou de la négligence habituelle de son parent ou de la personne qui en est responsable;
- i) l'enfant qui risque vraisemblablement de subir le type de maux affectifs visés au sous-alinéa f) (i), (ii), (iii), (iv) ou (v), si son parent ou la personne qui en est responsable ne fournit pas des services ou un traitement afin de prévenir ces maux ou n'y donne pas accès ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, refuse ou n'est pas en mesure de donner son consentement à ce traitement, ou n'est pas disponible pour le faire;
- j) l'enfant dont l'état mental ou affectif ou le trouble de développement risque, s'il n'y est pas remédié, de porter gravement atteinte à son développement, si son parent ou la personne qui en est responsable ne fournit pas un traitement afin de remédier à cet état ou à ce trouble ou de le soulager ou n'y donne pas accès ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, refuse ou n'est pas en mesure de donner son consentement à ce traitement, ou n'est pas disponible pour le faire;
- k) l'enfant dont le parent est décédé ou ne peut pas exercer ses droits de garde sur l'enfant et qui n'a pas pris de mesures suffisantes relativement à la garde de l'enfant et aux soins à lui fournir ou, si l'enfant est placé dans un établissement, l'enfant dont le parent refuse d'en assumer à nouveau la garde et de lui fournir des soins, n'est pas en mesure de le faire ou n'est pas disposé à le faire;
- l) l'enfant de moins de 12 ans qui a tué ou gravement blessé une autre personne ou a causé des dommages importants aux biens d'une autre personne et qui doit subir un traitement ou recevoir des services afin d'empêcher la répétition de ces actes, si son parent ou la personne qui en est responsable ne fournit pas des services ou un traitement ou n'y donne pas accès ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, refuse ou n'est pas en mesure de donner son consentement à ce traitement, ou n'est pas disponible pour le faire;
- m) l'enfant de moins de 12 ans qui a, à plusieurs reprises, blessé une autre personne ou causé une perte ou des dommages aux biens d'une autre personne, avec l'encouragement de la personne qui en est responsable ou en raison du défaut ou de l'incapacité de cette personne de le surveiller convenablement;
- n) l'enfant dont le parent n'est pas en mesure de lui fournir des soins et qui est amené devant le tribunal avec le consentement du parent et, si l'enfant a 12 ans ou plus, avec son consentement, afin que la question soit traitée comme le prévoit la présente partie;
- o) l'enfant de 16 ou 17 ans dans les circonstances ou situations prescrites.

Intérêt véritable de l'enfant

(3) La personne tenue, en application de la présente partie, de rendre une ordonnance ou de prendre une décision dans l'intérêt véritable d'un enfant étudie ce qui suit :

- a) l'opinion et les désirs de l'enfant, qui doivent être dûment pris en considération eu égard à son âge et à son degré de maturité, sauf s'ils ne peuvent être établis;
- b) dans le cas d'un enfant inuit, métis ou de Premières Nations, l'importance de préserver l'identité culturelle de l'enfant et les liens qui l'unissent à la communauté en reconnaissance du caractère unique que revêtent la culture, le patrimoine et les traditions propres aux Premières Nations, aux Inuits et aux Métis, et les éléments prévus aux alinéas a) et c);
- c) tout autre facteur que la personne juge pertinent, notamment :
 - (i) les besoins physiques, mentaux et affectifs de l'enfant, et les soins ou le traitement qui conviennent pour répondre à ces besoins,
 - (ii) le niveau de développement physique, mental et affectif de l'enfant,
 - (iii) la race de l'enfant, son ascendance, son lieu d'origine, sa couleur, son origine ethnique, sa citoyenneté, la diversité de sa famille, son handicap, sa croyance, son sexe, son orientation sexuelle, son identité sexuelle et l'expression de son identité sexuelle,
 - (iv) le patrimoine culturel et linguistique de l'enfant,
 - (v) l'importance, en ce qui concerne le développement de l'enfant, d'une relation positive avec un parent et d'une place sûre en tant que membre d'une famille,
 - (vi) les relations et les liens affectifs de l'enfant avec un parent, un frère ou une sœur, un membre de sa parenté, un membre de sa famille élargie ou un membre de sa communauté,
 - (vii) l'importance de la continuité en ce qui concerne les soins à fournir à l'enfant et les conséquences que peut avoir sur lui toute interruption de cette continuité,

- (viii) les avantages du programme que propose la société concernant les soins à fournir à l'enfant, y compris la proposition que l'enfant soit placé en vue de son adoption ou adopté, comparativement à la solution qui consisterait à laisser ou à rendre l'enfant à un parent,
- (ix) les conséquences sur l'enfant de tout retard relativement à la solution de son cas,
- (x) le risque que l'enfant subisse un préjudice si on le retire à un parent, s'il est tenu éloigné de lui, s'il retourne vivre avec lui ou s'il continue de vivre avec lui,
- (xi) le degré de risque, s'il en est, qui a justifié la conclusion selon laquelle l'enfant a besoin de protection.

Lieu sûr

(4) Pour l'application de la définition de «lieu sûr» au paragraphe (1), le foyer d'une personne est un lieu sûr pour un enfant si :

- a) d'une part, la personne est un membre de la parenté de l'enfant ou un membre de sa famille élargie ou de sa communauté;
- b) d'autre part, la société ou, dans le cas d'un enfant inuit, métis ou de Premières Nations, la société ou un fournisseur de services aux familles et aux enfants a effectué une évaluation de ce foyer conformément au protocole prescrit et est convaincu que la personne est disposée et apte à offrir un milieu de vie sûr à l'enfant.

Définition : fournisseur de services aux familles et aux enfants

(5) La définition qui suit s'applique au paragraphe (4).

«fournisseur de services aux familles et aux enfants» Fournisseur de services aux familles et aux enfants inuits, métis ou de Premières Nations désigné en vertu de l'article 70.

ENTENTES VOLONTAIRES

Entente relative à des soins temporaires

75 (1) La personne qui ne peut pas temporairement fournir des soins convenables à l'enfant confié à sa garde, d'une part, et la société dont le territoire de compétence englobe le lieu de résidence de cette personne, d'autre part, peuvent conclure une entente écrite en vue de confier l'enfant aux soins et à la garde de la société.

Participation obligatoire de l'enfant plus âgé à l'entente

(2) Aucune entente relative à des soins temporaires ne doit être conclue à l'égard d'un enfant de 12 ans ou plus si l'enfant n'est pas partie à l'entente.

Exception : déficience intellectuelle

(3) Le paragraphe (2) ne s'applique pas s'il a été établi, en fonction d'une évaluation effectuée dans l'année précédant la conclusion de l'entente, que l'enfant n'a pas la capacité juridique d'être partie à l'entente à cause d'une déficience intellectuelle.

Obligation de la société

(4) La société ne doit conclure une entente relative à des soins temporaires que si les conditions suivantes sont réunies :

- a) elle a établi la disponibilité d'un placement en établissement qui est approprié et qui profitera vraisemblablement à l'enfant;
- b) elle est convaincue qu'aucun autre plan d'action moins perturbateur, comme la prestation de soins à l'enfant dans son propre foyer, ne peut convenablement protéger l'enfant.

Durée de l'entente

(5) Aucune entente relative à des soins temporaires ne doit être conclue pour une période supérieure à six mois. Les parties à une entente de ce genre peuvent toutefois, avec l'approbation écrite du directeur, convenir de proroger l'entente une ou plusieurs fois si la durée totale de l'entente, avec ses prorogations, ne dépasse pas 12 mois.

Délai

(6) Aucune entente relative à des soins temporaires ne doit être conclue ou prorogée si elle a pour résultat que l'enfant est confié aux soins et à la garde d'une société pendant une période supérieure à ce qui suit :

- a) 12 mois, si l'enfant a moins de 6 ans le jour où l'entente est conclue ou prorogée;
- b) 24 mois, si l'enfant a 6 ans ou plus le jour où l'entente est conclue ou prorogée.

Calcul de la période de soins

(7) La période pendant laquelle l'enfant a été confié aux soins et à la garde d'une société conformément à l'une ou l'autre des ordonnances ou ententes suivantes entre dans le calcul de la période visée au paragraphe (6) :

1. Une ordonnance rendue en vertu de la disposition 2 du paragraphe 101 (1) et ayant pour effet de confier un enfant aux soins d'une société de façon provisoire.
2. Une entente relative à des soins temporaires conclue en vertu du paragraphe (1) du présent article.
3. Une ordonnance provisoire rendue en vertu de l'alinéa 94 (2) d).

Périodes antérieures prises en compte

(8) La période mentionnée au paragraphe (6) doit comprendre les périodes antérieures pendant lesquelles l'enfant était confié aux soins et à la garde d'une société par suite d'une ordonnance ou entente visée au paragraphe (7), à l'exclusion de toute période précédant une période continue d'au moins cinq ans pendant laquelle l'enfant n'était pas confié aux soins et à la garde d'une société.

Consentement à un traitement médical

(9) L'entente relative à des soins temporaires peut prévoir que, si l'enfant est jugé incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, la société a le droit d'agir à la place d'un parent pour ce qui est de consentir au traitement au nom de l'enfant.

Contenu de l'entente

(10) L'entente relative à des soins temporaires doit comprendre les éléments suivants :

1. Une déclaration de toutes les parties à l'entente selon laquelle l'enfant est désormais confié aux soins et à la garde de la société.
2. Une déclaration de toutes les parties à l'entente selon laquelle le placement de l'enfant est volontaire.
3. Une déclaration de la personne visée au paragraphe (1) selon laquelle elle est temporairement incapable de fournir des soins convenables à l'enfant et qu'elle a discuté avec la société de solutions de rechange au placement de l'enfant en établissement.
4. L'engagement par la personne visée au paragraphe (1) de garder le contact avec l'enfant et de participer aux soins qui lui sont fournis.
5. La désignation par la personne visée au paragraphe (1), s'il lui est impossible de garder le contact avec l'enfant et de participer aux soins qui lui sont fournis, d'une autre personne disposée à accepter cette responsabilité.
6. Le nom du particulier qui est la principale personne-ressource entre la société et la personne visée au paragraphe (1).
7. Toute autre disposition prescrite.

Personne désignée par le comité consultatif

(11) Si la personne visée au paragraphe (1) ne prend pas l'engagement prévu à la disposition 4 du paragraphe (10) ou ne désigne pas une personne comme le prévoit la disposition 5 du paragraphe (10), un comité consultatif sur les placements en établissement qui est créé en vertu du paragraphe 63 (1) et qui est compétent peut, en consultation avec la société, nommer une personne appropriée disposée à garder le contact avec l'enfant et à participer aux soins qui lui sont fournis.

Modification de l'entente

(12) Les parties à une entente relative à des soins temporaires peuvent la modifier à tout moment d'une manière conforme à la présente partie et aux règlements pris en vertu de celle-ci.

Expiration de l'entente : 18 ans

(13) Aucune entente relative à des soins temporaires ne demeure en vigueur après le 18^e anniversaire de naissance de la personne qui en fait l'objet.

Avis de résiliation

76 (1) Une partie à une entente relative à des soins temporaires peut la résilier à tout moment en donnant aux autres parties un avis écrit de son intention.

Entrée en vigueur de l'avis

(2) En cas de remise de l'avis visé au paragraphe (1), l'entente est résiliée à l'expiration d'un délai de cinq jours, ou du délai d'au plus 21 jours que l'entente précise, après la date à laquelle toutes les autres parties ont effectivement reçu l'avis.

Réponse d'une société à un avis de résiliation

(3) La société qui remet ou reçoit, en vertu du paragraphe (1), un avis d'intention de résilier une entente relative à des soins temporaires doit, le plus tôt possible et, en tout état de cause, avant la résiliation de l'entente en vertu du paragraphe (2), prendre l'une ou l'autre des mesures suivantes :

- a) faire en sorte que l'enfant soit rendu à la personne qui a conclu l'entente ou à la personne qui a obtenu une ordonnance de garde de l'enfant depuis la conclusion de l'entente;

- b) si elle est d'avis que l'enfant aurait besoin de protection s'il était rendu à la personne visée à l'alinéa a), amener l'enfant devant le tribunal en vertu de la présente partie afin de faire établir si l'enfant aurait besoin de protection dans ce cas;
- c) si l'enfant a 16 ou 17 ans et que les conditions énoncées aux alinéas 77 (1) a), b), c) et d) sont réunies, conclure une entente écrite avec l'enfant en vertu du paragraphe 77 (1).

Expiration de l'entente

(4) Si l'entente relative à des soins temporaires expire ou est sur le point d'expirer et n'est pas prorogée, la société doit, avant l'expiration de l'entente ou le plus tôt possible par la suite et, en tout état de cause, au cours des 21 jours qui suivent l'expiration de l'entente, prendre l'une ou l'autre des mesures suivantes :

- a) faire en sorte que l'enfant soit rendu à la personne qui a conclu l'entente ou à la personne qui a obtenu une ordonnance de garde de l'enfant depuis la conclusion de l'entente;
- b) si elle est d'avis que l'enfant aurait besoin de protection s'il était rendu à la personne visée à l'alinéa a), amener l'enfant devant le tribunal en vertu de la présente partie afin de faire établir si l'enfant aurait besoin de protection dans ce cas;
- c) si l'enfant a 16 ou 17 ans et que les conditions énoncées aux alinéas 77 (1) a), b), c) et d) sont réunies, conclure une entente écrite avec l'enfant en vertu du paragraphe 77 (1).

Ententes avec des jeunes de 16 et 17 ans

77 (1) La société et l'enfant de 16 ou 17 ans peuvent conclure une entente écrite relativement à la prestation de services et de soutiens à l'enfant si les conditions suivantes sont réunies :

- a) la société exerce sa compétence dans le territoire où l'enfant réside;
- b) la société a établi que l'enfant a ou peut avoir besoin de protection;
- c) la société est convaincue qu'aucun autre plan d'action moins perturbateur, comme la prestation de soins à l'enfant dans son propre foyer ou auprès d'un membre de sa parenté, d'un voisin ou d'un autre membre de sa communauté ou de sa famille élargie, ne peut convenablement protéger l'enfant;
- d) l'enfant veut conclure l'entente.

Durée de l'entente

(2) L'entente peut être conclue pour une période maximale de 12 mois. Elle peut toutefois être renouvelée si sa durée totale, avec les prorogations, ne dépasse pas 24 mois.

Rapports antérieurs ou actuels avec une société

(3) Un enfant peut conclure une entente en vertu du présent article indépendamment de ses rapports antérieurs ou actuels avec une société et de la période pendant laquelle il a été confié aux soins d'une société conformément soit à une entente conclue en vertu du paragraphe 75 (1), soit à une ordonnance rendue en vertu de l'alinéa 94 (2) d) ou de la disposition 2 ou 3 du paragraphe 101 (1).

Avis de résiliation de l'entente

(4) Une partie à une entente conclue en vertu du présent article peut la résilier à tout moment en donnant aux autres parties un avis écrit de son intention.

Expiration de l'entente : 18 ans

(5) Aucune entente conclue en vertu du présent article ne demeure en vigueur après le 18^e anniversaire de naissance de la personne qui en fait l'objet.

Révocation préalable d'ententes et d'ordonnances en cours

(6) Malgré le paragraphe (3), aucune entente ne peut entrer en vigueur en vertu du présent article tant qu'une entente relative à des soins temporaires conclue en vertu de l'article 75 ou qu'une ordonnance en matière de soins ou de surveillance d'un enfant visée à la présente partie n'est pas révoquée.

Représentation par l'avocat des enfants

(7) L'avocat des enfants peut représenter l'enfant qui conclut une entente en vertu du présent article s'il est d'avis que cela est approprié.

REPRÉSENTATION PAR UN AVOCAT

Représentation par un avocat

78 (1) Un enfant peut être représenté par un avocat à n'importe quelle étape d'une instance introduite sous le régime de la présente partie.

Décision du tribunal

(2) Si un enfant n'est pas représenté par un avocat dans une instance introduite sous le régime de la présente partie, le tribunal :

- a) doit, aussitôt que la chose peut se faire après l'introduction de l'instance;
- b) peut, à une étape ultérieure de l'instance,

établir s'il est souhaitable qu'un avocat représente l'enfant afin de sauvegarder ses intérêts.

Directive du tribunal

(3) Si le tribunal décide qu'il est souhaitable qu'un avocat représente un enfant afin de sauvegarder ses intérêts, il ordonne cette mesure.

Critères

(4) Si, selon le cas :

- a) le tribunal est d'avis qu'il existe une divergence de vues entre un enfant et un parent ou une société et que la société propose soit de retirer à une personne le soin de l'enfant, soit de faire en sorte que l'enfant soit confié aux soins d'une société de façon provisoire ou prolongée en vertu de la disposition 2 ou 3 du paragraphe 101 (1);
- b) l'enfant est confié aux soins de la société et :
 - (i) soit aucun parent ne comparaît devant le tribunal,
 - (ii) soit il est allégué que l'enfant a besoin de protection au sens de l'alinéa 74 (2) a), c), f), g) ou j);
- c) l'enfant n'a pas le droit d'assister à l'audience,

il est souhaitable qu'un avocat représente l'enfant afin de sauvegarder ses intérêts, à moins que le tribunal ne soit convaincu, après avoir tenu compte de l'opinion et des désirs de l'enfant, qui doivent être dûment pris en considération eu égard à son âge et à son degré de maturité, que les intérêts de l'enfant sont convenablement protégés d'une autre manière.

Cas où le parent est mineur

(5) Sauf ordonnance contraire du tribunal, si, dans une instance introduite sous le régime de la présente partie, le parent de l'enfant a moins de 18 ans, l'avocat des enfants doit représenter le parent.

PARTIES ET AVIS**Parties**

79 (1) Sont parties à l'instance introduite sous le régime de la présente partie :

- 1. Le requérant.
- 2. La société compétente en la matière.
- 3. Un parent de l'enfant.
- 4. Dans le cas d'un enfant inuit, métis ou de Premières Nations, les personnes visées aux dispositions 1, 2 et 3 et le représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Jonction du directeur

(2) À n'importe quelle étape de l'instance, le tribunal doit joindre le directeur comme partie à la suite d'une motion du directeur à cet effet.

Droit de participer

(3) La personne, y compris un parent de famille d'accueil, qui a pris soin de l'enfant de façon continue pendant les six mois qui ont précédé l'audience :

- a) a droit au même avis d'instance qu'une partie;
- b) peut assister à l'audience;
- c) peut être représentée par un avocat;
- d) peut présenter des observations au tribunal.

Toutefois, elle ne doit pas prendre part d'une autre manière à l'audience sans l'autorisation du tribunal.

Enfant de 12 ans ou plus

(4) L'enfant de 12 ans ou plus qui fait l'objet d'une instance introduite sous le régime de la présente partie a le droit de recevoir un avis d'instance et d'assister à l'audience, à moins que le tribunal ne soit convaincu que sa présence à l'audience lui causerait des maux affectifs. Dans ce cas, le tribunal ordonne que l'enfant ne reçoive pas un avis d'instance et qu'il ne puisse pas assister à l'audience.

Enfant de moins de 12 ans

(5) L'enfant de moins de 12 ans qui fait l'objet d'une instance introduite sous le régime de la présente partie n'a pas le droit de recevoir un avis d'instance, ni d'assister à l'audience, à moins que le tribunal ne soit convaincu :

- a) d'une part, que l'enfant est en mesure de comprendre l'audience;
- b) d'autre part, que la présence de l'enfant à l'audience ne lui causera pas de maux affectifs,

et qu'il n'ordonne que l'enfant reçoive un avis d'instance et puisse assister à l'audience.

Participation de l'enfant

(6) L'enfant qui est le requérant en vertu du paragraphe 113 (4) ou 115 (4) (révision du statut de l'enfant), qui reçoit l'avis d'instance prévu par la présente partie ou qui est représenté par un avocat a le droit de participer à l'instance et d'interjeter appel en vertu de l'article 121 comme s'il était une partie.

Permission de passer outre à l'envoi d'un avis

(7) S'il est convaincu que le délai exigé pour envoyer un avis à une personne risque de compromettre la santé ou la sécurité de l'enfant, le tribunal peut permettre de passer outre à l'envoi d'un avis à cette personne.

SOINS CONFORMES AUX TRADITIONS**Soins conformes aux traditions**

80 La société fait tous les efforts raisonnables pour mettre en oeuvre un plan de soins conformes aux traditions pour un enfant inuit, métis ou de Premières Nations si l'enfant réunit les conditions suivantes :

- a) il a besoin de protection;
- b) il ne peut rester ou être rendu aux soins et à la garde de la personne qui en était responsable immédiatement avant l'intervention prévue sous le régime de la présente partie ou, si une ordonnance portant sur la garde de l'enfant est exécutoire en Ontario, de la personne à qui l'ordonnance reconnaît le droit d'avoir la garde de l'enfant;
- c) il est membre d'une bande ou s'identifie avec une bande, ou il est membre d'une communauté inuite, métisse ou de Premières Nations ou s'identifie avec une telle communauté.

INTRODUCTION D'UNE INSTANCE PORTANT SUR LA PROTECTION D'UN ENFANT**Mandats, ordonnances, etc.****Requête**

81 (1) Une société peut demander au tribunal, par voie de requête, d'établir si un enfant a besoin de protection.

Mandat d'amener un enfant dans un lieu sûr

(2) Un juge de paix peut décerner un mandat autorisant un préposé à la protection de l'enfance à amener un enfant dans un lieu sûr s'il est convaincu, à la suite d'une dénonciation faite sous serment par un préposé à la protection de l'enfance, qu'il existe des motifs raisonnables et probables de croire ce qui suit :

- a) l'enfant a moins de 16 ans;
- b) l'enfant a besoin de protection;
- c) aucun autre plan d'action moins restrictif ou susceptible de protéger convenablement l'enfant n'est disponible.

Interdiction de refuser de décerner un mandat

(3) Le juge de paix ne doit pas refuser de décerner un mandat en vertu du paragraphe (2) pour le seul motif que le préposé à la protection de l'enfance peut amener l'enfant dans un lieu sûr en vertu du paragraphe (7).

Ordonnance d'amener un enfant dans un lieu sûr

(4) Si le tribunal est convaincu, à la suite d'une requête d'une personne et sur avis à la société, qu'il existe des motifs raisonnables et probables de croire :

- a) d'une part, qu'un enfant a besoin de protection, que l'affaire a été portée à la connaissance de la société, que la société n'a pas présenté la requête visée au paragraphe (1) et qu'aucun préposé à la protection de l'enfance n'a demandé le mandat prévu au paragraphe (2), ni amené l'enfant dans un lieu sûr en vertu du paragraphe (7);

b) d'autre part, que l'enfant ne peut être convenablement protégé que s'il est amené devant le tribunal, le tribunal peut ordonner :

- c) soit que la personne responsable de l'enfant amène l'enfant devant le tribunal à la date, à l'heure et au lieu indiqués dans l'ordonnance pour tenir l'audience prévue au paragraphe 90 (1) qui vise à établir si l'enfant a besoin de protection;
- d) soit, si le tribunal est convaincu que l'ordonnance visée à l'alinéa c) ne protégerait pas convenablement l'enfant, que le préposé à la protection de l'enfance au service de la société amène l'enfant dans un lieu sûr.

Identification de l'enfant

(5) Il n'est pas nécessaire, dans la requête présentée en vertu du paragraphe (1), le mandat décerné en vertu du paragraphe (2) ou l'ordonnance rendue en vertu du paragraphe (4), d'identifier l'enfant par son nom ou de préciser les locaux où il se trouve.

Pouvoir d'entrer dans des locaux

(6) Le préposé à la protection de l'enfance autorisé à amener l'enfant dans un lieu sûr au moyen d'un mandat décerné en vertu du paragraphe (2) ou d'une ordonnance rendue en vertu de l'alinéa (4) d) peut à tout moment entrer, en employant la force si cela est nécessaire, dans les locaux précisés dans le mandat ou l'ordonnance, y rechercher l'enfant et l'en retirer.

Enfant amené sans mandat dans un lieu sûr

(7) Le préposé à la protection de l'enfance peut, sans mandat, amener un enfant dans un lieu sûr s'il croit, en se fondant sur des motifs raisonnables et probables, ce qui suit :

- a) l'enfant a besoin de protection;
- b) l'enfant a moins de 16 ans;
- c) la santé ou la sécurité de l'enfant risquerait vraisemblablement d'être compromise pendant le laps de temps nécessaire à l'obtention d'une audience en vertu du paragraphe 90 (1) ou du mandat prévu au paragraphe (2).

Aide de la police

(8) Le préposé à la protection de l'enfance qui agit dans le cadre du présent article peut demander l'aide d'un agent de la paix.

Examen de l'enfant

(9) Le préposé à la protection de l'enfance qui agit dans le cadre du paragraphe (7) ou en vertu d'un mandat décerné en vertu du paragraphe (2) ou d'une ordonnance rendue en vertu de l'alinéa (4) d) peut autoriser l'examen médical d'un enfant si le consentement d'un parent serait normalement exigé.

Droit d'entrer

(10) Le préposé à la protection de l'enfance qui croit, en se fondant sur des motifs raisonnables et probables, qu'un enfant visé au paragraphe (7) se trouve dans des locaux peut, sans mandat, y entrer, en employant la force si cela est nécessaire, y rechercher l'enfant et l'en retirer.

Conformité aux règlements

(11) Le préposé à la protection de l'enfance autorisé à entrer dans des locaux en vertu du paragraphe (6) ou (10) exerce ce pouvoir conformément aux règlements.

Pouvoirs de l'agent de la paix

(12) Les paragraphes (2), (6), (7), (10) et (11) s'appliquent à un agent de la paix comme s'il était un préposé à la protection de l'enfance.

Immunité

(13) Sont irrecevables les actions intentées contre un agent de la paix ou un préposé à la protection de l'enfance pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel des fonctions que lui attribue le présent article ou pour une négligence ou un manquement qu'il aurait commis dans l'exercice de bonne foi de ces fonctions.

Exception : enfants de 16 et 17 ans amenés dans un lieu sûr avec consentement

82 (1) Un préposé à la protection de l'enfance peut amener dans un lieu sûr, avec son consentement, un enfant de 16 ou 17 ans qui fait l'objet d'une ordonnance de surveillance provisoire ou définitive.

Ordonnance de surveillance provisoire ou définitive

(2) La définition qui suit s'applique au présent article.

«ordonnance de surveillance provisoire ou définitive» Ordonnance rendue en vertu de l'alinéa 94 (2) b) ou c), de la disposition 1 ou 4 du paragraphe 101 (1), du paragraphe 113 (8) ou 115 (10) ou de l'alinéa 116 (1) a).

CAS PARTICULIERS D'APPRÉHENSION D'ENFANTS**Enfant qui s'est soustrait ou a été soustrait à des soins amené dans un lieu sûr****Avec mandat**

83 (1) Un juge de paix peut décerner un mandat autorisant un préposé à la protection de l'enfance à amener un enfant dans un lieu sûr s'il est convaincu, d'après une dénonciation faite sous serment par un préposé à la protection de l'enfance, que :

- a) d'une part, l'enfant a réellement ou apparemment moins de 16 ans et, selon le cas :
 - (i) s'est soustrait ou a été soustrait à la garde légitime et aux soins d'une société sans le consentement de celle-ci,
 - (ii) fait l'objet d'une ordonnance extraprovinciale de protection d'un enfant et s'est soustrait ou a été soustrait à la garde légitime et aux soins de l'organisme chargé du bien-être des enfants ou de toute autre personne nommée dans l'ordonnance;
- b) d'autre part, il existe des motifs raisonnables et probables de croire qu'à part le fait d'amener l'enfant dans un lieu sûr, aucun autre plan d'action susceptible de protéger convenablement l'enfant n'est disponible.

Interdiction de refuser de décerner un mandat

(2) Le juge de paix ne doit pas refuser de décerner un mandat à une personne en vertu du paragraphe (1) pour le seul motif que cette personne peut amener l'enfant dans un lieu sûr en vertu du paragraphe (4).

Aucune obligation de préciser les locaux

(3) Il n'est pas nécessaire, dans le mandat prévu au paragraphe (1), de préciser les locaux où se trouve l'enfant.

Sans mandat

(4) Un agent de la paix ou un préposé à la protection de l'enfance peut, sans mandat, amener l'enfant dans un lieu sûr s'il croit, en se fondant sur des motifs raisonnables et probables, que :

- a) d'une part, l'enfant a réellement ou apparemment moins de 16 ans et, selon le cas :
 - (i) s'est soustrait ou a été soustrait à la garde légitime et aux soins d'une société sans le consentement de celle-ci,
 - (ii) fait l'objet d'une ordonnance extraprovinciale de protection d'un enfant et s'est soustrait ou a été soustrait à la garde légitime et aux soins de l'organisme chargé du bien-être des enfants ou de toute autre personne nommée dans l'ordonnance;
- b) d'autre part, la santé ou la sécurité de l'enfant risquerait vraisemblablement d'être compromise pendant le laps de temps nécessaire à l'obtention du mandat prévu au paragraphe (1).

Pouvoir d'amener un enfant de moins de 12 ans chez lui ou dans un lieu sûr

84 (1) L'agent de la paix qui croit, en se fondant sur des motifs raisonnables et probables, qu'un enfant, réellement ou apparemment âgé de moins de 12 ans, a commis un acte pour lequel une personne de 12 ans ou plus pourrait être déclarée coupable d'une infraction peut amener l'enfant dans un lieu sûr sans mandat. Ensuite, l'agent de la paix :

- a) aussitôt que la chose peut se faire, rend l'enfant à son parent ou à la personne qui en est responsable;
- b) s'il n'est pas possible de rendre l'enfant à son parent ou à une autre personne dans un délai raisonnable, amène l'enfant dans un lieu sûr jusqu'à ce qu'il soit possible de le rendre à son parent ou à une autre personne.

Avis au parent

(2) Le responsable du lieu sûr dans lequel est détenu l'enfant en vertu du paragraphe (1) fait des efforts raisonnables pour aviser le parent de l'enfant ou la personne qui en est responsable de la détention de l'enfant de sorte que l'enfant puisse lui être rendu.

Cas où l'enfant n'est pas rendu dans les 12 heures

(3) Si un enfant amené dans un lieu sûr en vertu du paragraphe (1) ne peut être rendu à son parent ou à la personne qui en est responsable dans les 12 heures de son arrivée au lieu sûr, il est réputé avoir été amené dans un lieu sûr en vertu du paragraphe 81 (7) et non en vertu du paragraphe (1).

Enfants qui se soustraient aux soins des parents**Mandat d'amener un enfant dans un lieu sûr**

85 (1) Un juge de paix peut décerner un mandat autorisant un agent de la paix ou un préposé à la protection de l'enfance à amener un enfant dans un lieu sûr s'il est convaincu, d'après une dénonciation faite sous serment par une personne, de ce qui suit :

- a) l'enfant a moins de 16 ans;
- b) l'enfant s'est soustrait aux soins et à la surveillance de la personne sans son consentement;

- c) la personne croit, en se fondant sur des motifs raisonnables et probables, que la santé ou la sécurité de l'enfant risque d'être compromise s'il n'est pas amené dans un lieu sûr.

Enfant rendu ou amené dans un lieu sûr

(2) La personne qui agit dans le cadre d'un mandat décerné en vertu du paragraphe (1) le rend à la personne qui en prend soin et le surveille aussitôt que la chose peut se faire. S'il n'est pas possible de le faire dans un délai raisonnable, la personne amène l'enfant dans un lieu sûr.

Avis à la personne qui prend soin de l'enfant, le garde ou le surveille

(3) Le responsable du lieu sûr où l'enfant est amené en application du paragraphe (2) fait des efforts raisonnables pour aviser la personne qui prend soin de l'enfant et le surveille de la présence de l'enfant dans le lieu sûr de sorte qu'il puisse lui être rendu.

Cas où l'enfant n'est pas rendu dans les 12 heures

(4) Si un enfant amené dans un lieu sûr en application du paragraphe (2) ne peut être rendu à la personne qui en prend soin et le surveille dans les 12 heures de son arrivée au lieu sûr, il est réputé avoir été amené dans un lieu sûr en vertu du paragraphe 81 (2) et non en vertu du paragraphe (1).

Caractère plus approprié d'une ordonnance visant à faire respecter les droits de garde

(5) Le juge de paix ne doit pas décerner un mandat en vertu du paragraphe (1) à l'égard de l'enfant qui s'est soustrait aux soins et à la surveillance d'une personne s'il serait plus approprié d'introduire une instance en vertu de l'article 36 de la *Loi portant réforme du droit de l'enfance*.

Aucune obligation de préciser les locaux

(6) Il n'est pas nécessaire, dans le mandat prévu au paragraphe (1), de préciser les locaux où se trouve l'enfant.

Procédure de protection de l'enfant

(7) Si un agent de la paix ou un préposé à la protection de l'enfance croit, en se fondant sur des motifs raisonnables et probables, qu'un enfant amené dans un lieu sûr en vertu du présent article a besoin de protection et que sa santé ou sa sécurité risquerait vraisemblablement d'être compromise s'il était rendu à la personne qui en prend soin et le surveille :

- a) l'agent ou le préposé peut amener l'enfant dans un lieu sûr en vertu du paragraphe 81 (7);
- b) si l'enfant a été amené dans un lieu sûr en vertu du paragraphe (4), il est réputé avoir été amené dans ce lieu en vertu du paragraphe 81 (7).

Pouvoir d'entrer dans des locaux

86 (1) La personne autorisée par un mandat décerné en vertu du paragraphe 83 (1) ou 85 (1) à amener un enfant dans un lieu sûr peut à tout moment entrer, en employant la force si cela est nécessaire, dans les locaux précisés dans le mandat, y rechercher l'enfant et l'en retirer.

Droit d'entrer

(2) La personne autorisée en vertu du paragraphe 83 (4) ou 84 (1) qui croit, en se fondant sur des motifs raisonnables et probables, qu'un enfant visé au paragraphe pertinent se trouve dans des locaux peut, sans mandat, y entrer, en employant la force si cela est nécessaire, y rechercher l'enfant et l'en retirer.

Conformité aux règlements

(3) La personne autorisée à entrer dans des locaux en vertu du présent article exerce ce pouvoir conformément aux règlements.

Aide de la police

(4) Le préposé à la protection de l'enfance qui agit dans le cadre de l'article 83 ou 85 peut demander l'aide d'un agent de la paix.

Consentement : examen de l'enfant

(5) Si le paragraphe 84 (3) ou 85 (4) s'applique à un enfant amené dans un lieu sûr, un préposé à la protection de l'enfance peut autoriser l'examen médical de l'enfant si le consentement d'un parent serait normalement exigé.

Immunité

(6) Sont irrecevables les actions intentées contre un agent de la paix ou un préposé à la protection de l'enfance pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel des fonctions que lui attribue le présent article ou l'article 83, 84 ou 85 ou pour une négligence ou un manquement qu'il aurait commis dans l'exercice de bonne foi de ces fonctions.

AUDIENCES ET ORDONNANCES

Procédure : audiences**Définition**

87 (1) La définition qui suit s'applique au présent article.

«médias» S'entend de la presse, de la radio et de la télévision.

Champ d'application

(2) Le présent article s'applique aux audiences tenues sous le régime de la présente partie, à l'exclusion de celles visées à l'article 134 (registre des mauvais traitements infligés aux enfants).

Lieu d'une audience

(3) L'audience est tenue séparément des audiences tenues dans le cadre d'instances criminelles.

Huis clos sauf avis contraire du tribunal

(4) L'audience se tient à huis clos, sous réserve du paragraphe (5), sauf si le tribunal ordonne qu'elle soit publique après avoir étudié à la fois :

- a) les désirs et les intérêts des parties;
- b) la question de savoir si la présence du public causerait des maux affectifs à l'enfant qui témoigne, qui participe à l'audience ou qui fait l'objet de l'instance.

Participation des représentants des médias

(5) Des représentants des médias, choisis conformément au paragraphe (6), peuvent assister à l'audience tenue à huis clos, à moins que le tribunal ne rende l'ordonnance d'exclusion prévue au paragraphe (7).

Sélection des représentants des médias

(6) Les représentants des médias qui peuvent assister à l'audience tenue à huis clos sont choisis de la manière suivante :

1. Les représentants des médias qui sont sur place ne peuvent choisir que deux personnes au maximum parmi eux.
2. S'ils ne sont pas en mesure de s'entendre sur le choix de ces deux personnes, le tribunal peut choisir les deux représentants qui peuvent assister à l'audience.
3. Le tribunal peut autoriser la présence de représentants supplémentaires.

Ordonnance d'exclusion ou de non-publication

(7) S'il est d'avis que la présence du ou des représentants des médias ou que la publication du rapport, selon le cas, causerait des maux affectifs à l'enfant qui témoigne, qui participe à l'audience ou qui fait l'objet de l'instance, le tribunal peut rendre une ordonnance qui :

- a) soit exclut un représentant particulier des médias de tout ou partie de l'audience;
- b) soit exclut tous les représentants des médias de tout ou partie de l'audience;
- c) soit interdit la publication d'un rapport de l'audience ou d'une partie précise de celle-ci.

Interdiction : identification d'un enfant

(8) Nul ne doit publier, ni rendre publics des renseignements ayant pour effet d'identifier un enfant qui témoigne, qui participe à une audience ou qui fait l'objet d'une instance, ou un parent ou un parent de famille d'accueil de cet enfant ou un membre de la famille de cet enfant.

Interdiction : identification d'une personne accusée

(9) Le tribunal peut rendre une ordonnance interdisant la publication de renseignements ayant pour effet d'identifier une personne accusée d'une infraction à la présente partie.

Transcription

(10) Sauf décision contraire du tribunal, aucune copie de la transcription de l'audience ne doit être donnée à qui que ce soit, à l'exception d'une partie ou de son avocat.

Séjour limité dans un lieu sûr

88 Aussitôt que la chose peut se faire et, en tout état de cause, dans les cinq jours suivant le jour où l'enfant est amené dans un lieu sûr en application de l'article 81, du sous-alinéa 83 (1) a) (ii) ou du paragraphe 136 (5), l'une ou l'autre des mesures suivantes doit être prise :

- a) un tribunal doit être saisi de l'affaire afin que soit tenue l'audience prévue au paragraphe 90 (1) (audience portant sur la protection de l'enfant);
- b) l'enfant doit être rendu à la dernière personne qui en avait la responsabilité ou, si une ordonnance portant sur la garde de l'enfant est exécutoire en Ontario, à la personne à qui l'ordonnance reconnaît le droit d'avoir la garde de l'enfant;
- c) l'enfant qui fait l'objet d'une ordonnance extraprovinciale de protection d'un enfant doit être rendu à l'organisme chargé du bien-être des enfants ou à toute autre personne nommée dans l'ordonnance;
- d) une entente relative à des soins temporaires doit être conclue en vertu du paragraphe 75 (1);
- e) une entente doit être conclue en vertu de l'article 77 (ententes avec des jeunes de 16 et 17 ans).

Restriction relative au délai dans un lieu sûr : enfant de 16 ou 17 ans

89 Aussitôt que la chose peut se faire et, en tout état de cause, dans les cinq jours suivant le jour où l'enfant de 16 ou 17 ans est amené, avec son consentement, dans un lieu sûr en vertu de l'article 82 :

- a) un tribunal doit être saisi de l'affaire afin que soit tenue l'audience prévue au paragraphe 90 (1);
- b) l'enfant doit être rendu à la personne à qui l'ordonnance rendue en vertu de la présente partie reconnaît le droit d'avoir la garde de l'enfant.

Audience portant sur la protection de l'enfant

90 (1) Si une requête est présentée en vertu du paragraphe 81 (1) ou que le tribunal est saisi d'une question visant à établir si un enfant a besoin de protection, le tribunal tient une audience afin de trancher cette question et rend une ordonnance en vertu de l'article 101.

Nom et âge de l'enfant

(2) Aussitôt que la chose peut se faire et, en tout état de cause, avant de décider si l'enfant a besoin de protection, le tribunal établit, en ce qui concerne l'enfant :

- a) son nom et son âge;
- b) si celui-ci est un enfant inuit, métis ou de Premières Nations et, le cas échéant, les bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient;
- c) si celui-ci a été amené dans un lieu sûr avant l'audience, l'emplacement du lieu d'où il a été retiré.

Territoire de compétence

91 (1) La définition qui suit s'applique au présent article.

«territoire de compétence» S'entend du territoire sur lequel une société exerce sa compétence en application du paragraphe 34 (1).

Lieu de l'audience

(2) L'audience tenue sous le régime de la présente partie a lieu dans le territoire de compétence où l'enfant réside habituellement. Toutefois :

- a) si l'enfant est amené dans un lieu sûr avant l'audience, l'audience se tient dans le territoire de compétence où se trouve le lieu d'où l'enfant a été retiré;
- b) si l'enfant est confié aux soins d'une société soit de façon provisoire en application d'une ordonnance rendue en vertu de la disposition 2 ou 4 du paragraphe 101 (1), soit de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c), l'audience se tient dans le territoire de compétence de la société;
- c) si l'enfant fait l'objet d'une ordonnance de surveillance par la société rendue en vertu de la disposition 1 du paragraphe 101 (1) ou de l'alinéa 116 (1) a), l'audience peut se tenir dans le territoire de compétence de la société ou dans celui où réside le parent ou l'autre personne auprès de qui l'enfant est placé.

Renvoi de l'instance

(3) S'il est convaincu à une étape quelconque d'une instance introduite sous le régime de la présente partie qu'il serait plus pratique d'instruire l'instance dans un autre territoire de compétence, le tribunal peut ordonner le renvoi de l'instance dans cet autre territoire, auquel cas l'instance continue d'être instruite comme si elle avait été introduite dans ce territoire.

Ordonnances relatives aux sociétés

(4) Le tribunal ne doit rendre une ordonnance confiant un enfant aux soins ou à la surveillance d'une société que si le lieu où il siège se trouve dans le territoire de compétence de la société.

Pouvoir du tribunal

92 Le tribunal peut, de sa propre initiative, assigner une personne à comparaître devant lui, à témoigner et à produire tout document ou objet. Il peut faire exécuter l'assignation comme si elle avait été délivrée dans une instance introduite en vertu de la *Loi sur le droit de la famille*.

Preuve**Conduite antérieure envers des enfants**

93 (1) Malgré toute disposition de la *Loi sur la preuve*, dans une instance introduite sous le régime de la présente partie :

- a) d'une part, le tribunal peut tenir compte de la conduite antérieure d'une personne envers un enfant, si le soin de l'enfant qui fait l'objet de l'instance lui est ou peut lui être confié ou si la personne a ou peut avoir le droit de visiter l'enfant;
- b) d'autre part, sont admissibles en preuve les déclarations ou rapports, oraux ou écrits, y compris une transcription, une pièce, une conclusion ou les motifs d'une décision issue d'une instance antérieure, civile ou criminelle, que le tribunal juge pertinents.

Preuve : règlement et décision

(2) Lors de l'audience visée au paragraphe 90 (1), la preuve ne portant que sur le règlement de l'affaire ne doit pas être prise en compte pour établir si l'enfant a besoin de protection.

Ajournement

94 (1) Le tribunal ne doit pas ajourner une audience pendant plus de 30 jours :

- a) sauf si toutes les parties présentes et la personne à qui sera confié le soin de l'enfant pendant l'ajournement y consentent;
- b) si le tribunal sait qu'une partie qui n'assiste pas à l'audience s'oppose à un ajournement plus long.

Garde de l'enfant pendant l'ajournement

(2) Si l'audience est ajournée, le tribunal rend une ordonnance provisoire en matière de soins et de garde qui prévoit que l'enfant :

- a) reste ou est rendu aux soins et à la garde de la personne qui en était responsable immédiatement avant l'intervention prévue sous le régime de la présente partie;
- b) reste ou est rendu aux soins et à la garde de la personne visée à l'alinéa a), sous réserve de la surveillance par la société et aux conditions raisonnables que le tribunal estime appropriées;
- c) est confié aux soins et à la garde d'une personne autre que celle visée à l'alinéa a), avec le consentement de cette autre personne, sous réserve de la surveillance par la société et aux conditions raisonnables que le tribunal estime appropriées;
- d) reste ou est confié aux soins et à la garde de la société, mais qu'il ne doit pas être placé dans un lieu de détention provisoire ou dans un lieu de garde en milieu ouvert ou en milieu fermé.

Enfant faisant l'objet d'une ordonnance extraprovinciale

(3) Si un tribunal rend une ordonnance en vertu de l'alinéa (2) d) dans le cas d'un enfant qui fait l'objet d'une ordonnance extraprovinciale de protection d'un enfant, la société peut, pendant la période d'ajournement, rendre l'enfant aux soins et à la garde de l'organisme chargé du bien-être des enfants ou de toute autre personne nommée dans l'ordonnance.

Facteurs

(4) Le tribunal ne doit pas rendre d'ordonnance en vertu de l'alinéa (2) c) ou d), sauf s'il est convaincu qu'il existe des motifs raisonnables de croire que l'enfant risque vraisemblablement de subir des maux et qu'il ne peut pas être convenablement protégé par l'ordonnance visée à l'alinéa (2) a) ou b).

Placement auprès d'un membre de la parenté ou d'une autre personne

(5) Avant de rendre une ordonnance provisoire en matière de soins et de garde en vertu de l'alinéa (2) d), le tribunal examine s'il est dans l'intérêt véritable de l'enfant de rendre une ordonnance en vertu de l'alinéa (2) c) qui vise à le confier aux soins et à la garde d'une personne qui est un membre de sa parenté, de sa famille élargie ou de sa communauté.

Conditions imposées par l'ordonnance

(6) L'ordonnance provisoire en matière de soins et de garde d'un enfant prévue à l'alinéa (2) b) ou c) peut imposer :

- a) des conditions raisonnables relativement à la surveillance de l'enfant et aux soins à lui donner;
- b) des conditions raisonnables au parent de l'enfant, à la personne aux soins et à la garde de laquelle l'enfant sera confié en application de l'ordonnance, à l'enfant et à toute autre personne, à l'exception d'un parent de famille d'accueil, qui

propose un programme de soins et de garde ou un programme de droit de visite à l'égard de l'enfant ou qui participerait à un tel programme;

- c) des conditions raisonnables à la société qui surveillera le placement, sans toutefois exiger qu'elle fournisse une aide financière ou qu'elle achète des biens ou des services.

Application de l'article 107

(7) Si le tribunal rend une ordonnance en vertu de l'alinéa (2) d), l'article 110 (enfant confié aux soins d'une société de façon provisoire) s'applique avec les adaptations nécessaires.

Droit de visite

(8) L'ordonnance rendue en vertu de l'alinéa (2) c) ou d) peut comprendre des dispositions portant sur le droit d'une personne de visiter l'enfant aux conditions que le tribunal estime appropriées.

Modification de l'ordonnance

(9) Le tribunal peut à tout moment modifier ou révoquer une ordonnance rendue en vertu du paragraphe (2).

Preuve

(10) Pour l'application du présent article, le tribunal peut accepter les preuves qu'il juge dignes de foi et sûres dans les circonstances.

Opinion et désirs de l'enfant

(11) Avant de rendre une ordonnance en vertu du paragraphe (2), le tribunal prend dûment en considération l'opinion et les désirs de l'enfant eu égard à son âge et à son degré de maturité, sauf s'ils ne peuvent être établis.

Usage des méthodes prescrites de règlement extrajudiciaire des différends

95 À n'importe quelle étape d'une instance introduite sous le régime de la présente partie, le tribunal peut, dans l'intérêt véritable de l'enfant et avec le consentement des parties, ajourner l'instance pour permettre aux parties de tenter de régler, au moyen d'une méthode prescrite de règlement extrajudiciaire des différends, tout différend qui les oppose à l'égard d'une question en lien avec l'instance.

Retard : date fixée par le tribunal

96 Si une requête est présentée en vertu du paragraphe 81 (1) ou que le tribunal est saisi d'une question visant à établir si un enfant a besoin de protection et qu'aucune décision à cet égard n'a été prise dans les trois mois de l'introduction de l'instance, le tribunal :

- a) doit fixer, par ordonnance, une date pour entendre la requête, cette date pouvant être la date la plus rapprochée de nature à permettre le juste règlement de la requête;
- b) peut donner les directives et rendre les ordonnances relatives à l'instance qui sont justes.

Motifs

97 (1) S'il rend une ordonnance sous le régime de la présente partie, le tribunal donne :

- a) un énoncé des conditions dont l'ordonnance est assortie;
- b) un énoncé de chacun des programmes de soins à fournir à l'enfant qui lui ont été proposés;
- c) un énoncé du programme de soins à fournir à l'enfant que le tribunal précise dans sa décision;
- d) les motifs de sa décision, notamment :
 - (i) un bref exposé des éléments de preuve sur lesquels il fonde sa décision,
 - (ii) si l'ordonnance a pour effet de retirer l'enfant des soins de la personne qui en était responsable immédiatement avant l'intervention prévue sous le régime de la présente partie, un énoncé des motifs pour lesquels l'enfant ne peut pas être convenablement protégé s'il est confié aux soins de cette personne.

Aucune obligation d'identifier la personne ou d'indiquer le lieu

(2) L'alinéa (1) b) n'exige pas que le tribunal identifie la personne auprès de qui l'enfant serait placé ni le lieu où il est proposé de le placer pour qu'il reçoive des soins et fasse l'objet d'une surveillance.

ÉVALUATIONS

Ordonnance d'évaluation

98 (1) Dans le cadre d'une instance introduite sous le régime de la présente partie, le tribunal peut ordonner à une ou plusieurs des personnes suivantes de se soumettre, dans un délai précis, à une évaluation par une personne nommée conformément aux paragraphes (3) et (4) :

1. L'enfant.
2. Un parent de l'enfant.
3. Toute autre personne, à l'exception d'un parent de famille d'accueil, qui propose un programme de soins et de garde ou un programme de droit de visite à l'égard de l'enfant ou qui participerait à un tel programme.

Conditions : ordonnance d'évaluation

(2) Le tribunal peut ordonner une évaluation s'il est convaincu :

- a) d'une part, qu'il est nécessaire qu'une ou plusieurs des personnes visées au paragraphe (1) se soumettent à une évaluation pour qu'il puisse rendre une décision sous le régime de la présente partie;
- b) d'autre part, que les éléments de preuve recherchés lors de l'évaluation ne sont pas par ailleurs à la disposition du tribunal.

Évaluateur choisi par les parties

(3) L'ordonnance rendue en vertu du paragraphe (1) précise le délai dans lequel les parties à l'instance peuvent choisir l'évaluateur et communiquer son nom au tribunal.

Nomination de l'évaluateur choisi par les parties

(4) Le tribunal nomme l'évaluateur choisi par les parties s'il est convaincu que cette personne satisfait aux critères suivants :

1. Elle possède les compétences pour effectuer soit une évaluation d'ordre médical, affectif, psychologique, scolaire ou social, soit une évaluation du développement.
2. Elle a accepté d'effectuer l'évaluation.

Nomination d'un évaluateur qui n'est pas choisi par les parties

(5) S'il est d'avis que la personne choisie par les parties en vertu du paragraphe (3) ne satisfait pas aux critères énoncés au paragraphe (4), le tribunal choisit et nomme une autre personne qui satisfait à ces critères.

Règlements

(6) L'ordonnance rendue en vertu du paragraphe (1) et l'évaluation qu'elle exige doivent être conformes aux exigences prescrites.

Rapport

(7) L'évaluateur présente au tribunal son rapport écrit de l'évaluation visée au paragraphe (1) dans le délai précisé dans l'ordonnance. Ce délai ne doit pas dépasser 30 jours, sauf si le tribunal est d'avis qu'une période d'évaluation plus longue est nécessaire.

Copies du rapport

(8) Sept jours au moins avant l'étude, par le tribunal, du rapport à l'audience, le tribunal ou la partie qui a demandé l'évaluation, s'il y a lieu, fournit une copie du rapport aux personnes suivantes :

- a) la personne qui a fait l'objet de l'évaluation, sous réserve des paragraphes (9) et (10);
- b) l'avocat ou le mandataire de l'enfant;
- c) le parent qui comparaît à l'audience, ou son avocat;
- d) la société qui fournit des soins à l'enfant ou le surveille;
- e) le directeur, s'il en fait la demande;
- f) dans le cas d'un enfant inuit, métis ou de Premières Nations, les personnes visées aux alinéas a), b), c), d) et e) et le représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient;
- g) quiconque devrait, de l'avis du tribunal, en recevoir une copie aux fins du cas.

Enfant de moins de 12 ans

(9) L'enfant de moins de 12 ans qui fait l'objet d'une évaluation ne doit pas recevoir de copie du rapport, à moins que le tribunal ne décide que cela est souhaitable.

Enfant de 12 ans ou plus

(10) L'enfant de 12 ans ou plus qui fait l'objet d'une évaluation reçoit une copie du rapport, à moins que le tribunal ne soit convaincu que la divulgation de tout ou partie du rapport lui causerait des maux affectifs, auquel cas il peut refuser de lui communiquer tout ou partie du rapport.

Incompatibilité

(11) Les paragraphes (9) et (10) l'emportent sur toute disposition de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*.

Évaluation comme preuve

(12) Le rapport de l'évaluation ordonnée en vertu du paragraphe (1) constitue une preuve et fait partie du dossier de l'instance.

Refus de se soumettre à l'évaluation

(13) Si une personne refuse de se soumettre à l'évaluation ordonnée en vertu du paragraphe (1), le tribunal peut en tirer les conclusions qu'il estime raisonnables.

Rapport inadmissible

(14) Le rapport de l'évaluation ordonnée en vertu du paragraphe (1) n'est pas admissible en preuve dans une autre instance, si ce n'est, selon le cas :

- a) une instance prévue par la présente partie, notamment un appel interjeté en vertu de l'article 121;
- b) une instance visée à l'article 137;
- c) une instance prévue par la partie VIII (Adoption et délivrance de permis relatifs à l'adoption) et ayant trait à une requête en vue d'obtenir, de modifier ou de révoquer une ordonnance de communication;
- d) une instance prévue par la *Loi sur les coroners*,

sans le consentement de la ou des personnes ayant fait l'objet de l'évaluation.

Ordonnance rendue avec consentement : exigences particulières

99 Si un enfant est amené devant le tribunal de la manière décrite à l'alinéa 74 (2) n), le tribunal, avant de rendre une ordonnance en vertu de l'article 101 ou 102 portant sur le retrait de l'enfant des soins et de la garde du parent :

- a) demande si :
 - (i) la société a offert au parent et à l'enfant des services qui permettraient à l'enfant de demeurer auprès du parent,
 - (ii) le parent et l'enfant, s'il a 12 ans ou plus, ont consulté un avocat indépendant au sujet du consentement;
- b) doit être convaincu que :
 - (i) le parent et l'enfant, s'il a 12 ans ou plus, comprennent la nature et les conséquences du consentement,
 - (ii) chaque consentement est volontaire,
 - (iii) le parent et l'enfant, s'il a 12 ans ou plus, consentent à ce que l'ordonnance soit demandée.

Programme établi par la société

100 Avant de rendre une ordonnance en vertu de l'article 101, 102, 114 ou 116, le tribunal obtient et étudie le programme de soins à fournir à l'enfant qu'a élaboré par écrit la société. Le programme doit notamment comprendre :

- a) la description des services à fournir afin de remédier aux conditions ou situations qui ont donné naissance, selon le tribunal, au besoin de protection;
- b) un énoncé des critères sur lesquels la société se fondera pour fixer le moment où ses soins ou sa surveillance ne s'imposeront plus;
- c) la période approximative requise pour que la société atteigne ses buts en ce qui concerne l'enfant;
- d) si la société propose de retirer ou a retiré l'enfant des soins d'une personne :
 - (i) une explication des raisons pour lesquelles l'enfant ne peut être convenablement protégé s'il demeure confié aux soins de cette personne et une description des efforts antérieurs faits en ce sens, le cas échéant,
 - (ii) une description des efforts, le cas échéant, qui sont prévus pour que l'enfant reste en contact avec cette personne;
- e) si la société propose de retirer ou a retiré, de façon permanente, l'enfant des soins d'une personne, une description des mesures déjà prises ou en train d'être prises pour assurer le placement stable et à long terme de l'enfant;
- f) une description des mesures déjà prises ou en train d'être prises pour reconnaître l'importance de la culture de l'enfant et préserver son patrimoine, ses traditions et son identité culturelle.

Ordonnance portant sur la protection de l'enfant

101 (1) Si le tribunal, d'une part, conclut qu'un enfant a besoin de protection et, d'autre part, est convaincu qu'une ordonnance est nécessaire afin de protéger l'enfant à l'avenir, il rend l'une ou l'autre des ordonnances suivantes ou une ordonnance prévue à l'article 102 dans l'intérêt véritable de l'enfant :

Surveillance

1. Une ordonnance pour que l'enfant soit confié aux soins et à la garde d'un parent ou d'une autre personne, sous réserve de la surveillance par la société, pendant une période précise comprise entre 3 et 12 mois.

Enfant confié aux soins d'une société de façon provisoire

2. Une ordonnance pour que l'enfant soit confié aux soins et à la garde d'une société de façon provisoire pendant une période précise ne dépassant pas 12 mois.

Enfant confié aux soins d'une société de façon prolongée

3. Une ordonnance pour que l'enfant soit confié aux soins d'une société de façon prolongée jusqu'à la révocation de l'ordonnance en vertu de l'article 116 ou jusqu'à son expiration en vertu de l'article 123.

Ordonnances consécutives : soins et garde de façon provisoire

4. Une ordonnance pour que l'enfant soit confié aux soins et à la garde d'une société de façon provisoire en application de la disposition 2 pour une période précise, puis rendu à un parent ou à une autre personne en application de la disposition 1, pour une ou des périodes ne dépassant pas en tout 12 mois.

Renseignements exigés par le tribunal

(2) Lorsqu'il décide de l'ordonnance à rendre en vertu du paragraphe (1) ou de l'article 102, le tribunal demande aux parties quels efforts la société ou une autre personne ou entité a faits pour aider l'enfant avant l'intervention prévue à la présente partie.

Mesures moins perturbatrices

(3) Le tribunal ne doit pas rendre une ordonnance retirant l'enfant des soins de la personne qui en était responsable immédiatement avant l'intervention prévue à la présente partie, à moins qu'il ne soit convaincu que des mesures moins perturbatrices pour l'enfant, y compris la prestation de soins hors établissement et l'aide visée au paragraphe (2), seraient inadéquates pour assurer la protection de l'enfant.

Placement en milieu communautaire

(4) Si le tribunal décide qu'il est nécessaire de retirer l'enfant des soins de la personne qui en était responsable immédiatement avant l'intervention prévue à la présente partie, il doit, avant de rendre une ordonnance en vertu de la disposition 2 ou 3 du paragraphe (1), étudier s'il est possible de placer l'enfant, en vertu de la disposition 1 du paragraphe (1), auprès d'un membre de la parenté, d'un voisin ou d'un autre membre de sa communauté ou de sa famille élargie, avec le consentement de la personne auprès de qui l'enfant serait placé.

Enfant inuit, métis ou de Premières Nations

(5) Si l'enfant visé au paragraphe (4) est un enfant inuit, métis ou de Premières Nations, le tribunal, sauf s'il existe une raison importante pour placer l'enfant ailleurs, le place auprès d'un membre de sa famille élargie si cela est possible, sinon :

- a) dans le cas d'un enfant de Premières Nations, auprès d'une autre famille de Premières Nations;
- b) dans le cas d'un enfant inuit, auprès d'une autre famille inuite;
- c) dans le cas d'un enfant métis, auprès d'une autre famille métisse.

Autre audience avec avis d'ordonnance ayant pour effet de confier l'enfant aux soins d'une société de façon provisoire ou prolongée

(6) Si le tribunal a permis de passer outre à la remise d'un avis à une personne en vertu du paragraphe 79 (7), il ne doit pas rendre une ordonnance ayant pour effet de confier l'enfant aux soins d'une société de façon provisoire en vertu de la disposition 2 du paragraphe (1) pour une période dépassant 30 jours ou une ordonnance ayant pour effet de confier l'enfant aux soins d'une société de façon prolongée en vertu de la disposition 3 du paragraphe (1) tant qu'une autre audience prévue au paragraphe 90 (1) n'a pas été tenue après la remise de l'avis à cette personne.

Ordonnance de surveillance assortie de conditions

(7) S'il rend une ordonnance de surveillance en vertu de la disposition 1 du paragraphe (1), le tribunal peut imposer,

- a) des conditions raisonnables relativement à la surveillance de l'enfant et aux soins à lui donner;
- b) des conditions raisonnables aux personnes suivantes :
 - (i) un parent de l'enfant,

- (ii) la personne aux soins et à la garde de laquelle l'enfant sera confié en application de l'ordonnance,
 - (iii) l'enfant,
 - (iv) toute autre personne, à l'exception d'un parent de famille d'accueil, qui propose un programme de soins et de garde ou un programme de droit de visite à l'égard de l'enfant ou qui participerait à un tel programme;
- c) des conditions raisonnables à la société qui surveillera le placement, sans toutefois exiger qu'elle fournisse une aide financière ou qu'elle achète des biens ou des services.

Ordonnance : enfant rendu à la personne responsable de lui avant l'intervention

(8) Si le tribunal conclut que l'enfant a besoin de protection, mais qu'il n'est pas convaincu qu'une ordonnance soit nécessaire pour protéger l'enfant à l'avenir, il ordonne que l'enfant demeure auprès de la personne qui en était responsable immédiatement avant l'intervention prévue à la présente partie ou lui soit rendu.

Aucune ordonnance si l'enfant n'est pas soumis à l'autorité parentale

(9) Si le tribunal conclut que l'enfant qui n'était pas soumis à l'autorité parentale immédiatement avant l'intervention prévue sous le régime de la présente partie du fait qu'il s'y était soustrait ou qui se soustrait à l'autorité parentale après une telle intervention a besoin de protection, mais qu'il n'est pas convaincu qu'une ordonnance du tribunal soit nécessaire pour protéger l'enfant à l'avenir, il ne rend aucune ordonnance à l'égard de l'enfant.

Ordonnance de garde

102 (1) Sous réserve du paragraphe (6), si le tribunal conclut qu'une ordonnance prévue au présent article, plutôt qu'une ordonnance prévue au paragraphe 101 (1), serait dans l'intérêt véritable de l'enfant, il peut rendre une ordonnance accordant la garde de l'enfant à une ou à plusieurs personnes, à l'exception d'un parent de famille d'accueil de l'enfant, si la ou les personnes y consentent.

Ordonnance réputée rendue en vertu de l'article 28 de la *Loi portant réforme du droit de l'enfance*

(2) L'ordonnance rendue en vertu du paragraphe (1) et toute ordonnance de visite rendue en même temps en vertu de l'article 104 sont réputées être rendues en vertu de l'article 28 de la *Loi portant réforme du droit de l'enfance* et le tribunal peut faire ce qui suit :

- a) rendre en vertu du paragraphe (1) toute ordonnance qu'il peut rendre en vertu de l'article 28 de cette loi;
- b) donner les directives qu'il peut donner en vertu de l'article 34 de cette loi.

Ordonnance de ne pas faire

(3) Lorsqu'il rend une ordonnance en vertu du paragraphe (1), le tribunal peut, sans qu'il soit nécessaire de présenter une requête distincte, rendre une ordonnance de ne pas faire conformément à l'article 35 de la *Loi portant réforme du droit de l'enfance*.

Ordonnance réputée être définitive conformément à l'article 35 de la *Loi portant réforme du droit de l'enfance*

(4) L'ordonnance rendue en vertu du paragraphe (3) est réputée être une ordonnance définitive rendue conformément à l'article 35 de la *Loi portant réforme du droit de l'enfance* et est traitée, à tous égards, comme si elle avait été rendue conformément à cet article.

Appel des ordonnances en vertu de l'article 121

(5) Malgré les paragraphes (2) et (4), l'ordonnance rendue en vertu du paragraphe (1) ou (3) et toute ordonnance de visite rendue en vertu de l'article 104 en même temps qu'une ordonnance rendue en vertu du paragraphe (1) sont des ordonnances rendues sous le régime de la présente partie aux fins d'interjeter appel de ces ordonnances en vertu de l'article 121.

Conflit de lois

(6) Aucune ordonnance ne doit être rendue en vertu du présent article si, selon le cas :

- a) une ordonnance accordant la garde de l'enfant a été rendue en vertu de la *Loi sur le divorce* (Canada);
- b) dans le cas d'une ordonnance qui serait rendue par la Cour de justice de l'Ontario, elle serait incompatible avec une ordonnance rendue par une cour supérieure.

Application du paragraphe 101 (3)

(7) Le paragraphe 101 (3) s'applique aux fins du présent article.

Effet de l'instance relative à la garde

103 L'instance qui est introduite ou l'ordonnance portant sur les soins, la garde ou la surveillance d'un enfant qui est rendue sous le régime de la présente partie a pour effet de surseoir à toute instance relative à la garde du même enfant ou au droit de visiter cet enfant qui est introduite sous le régime de la *Loi portant réforme du droit de l'enfance*, sauf autorisation du tribunal dans cette dernière instance.

DROIT DE VISITE

Ordonnance de visite

104 (1) Le tribunal peut, dans l'intérêt véritable de l'enfant :

- a) soit lorsqu'il rend une ordonnance sous le régime de la présente partie;
- b) soit à la suite de la requête visée au paragraphe (2),

rendre, modifier ou révoquer l'ordonnance portant sur le droit de visite d'une personne à l'enfant, ou réciproquement. Il peut assortir l'ordonnance des conditions qu'il estime appropriées.

Qui peut présenter la requête

(2) Si l'enfant est confié à la garde et aux soins ou à la surveillance d'une société, l'une ou l'autre des personnes suivantes peut demander au tribunal, par voie de requête, de rendre l'ordonnance prévue au paragraphe (1) :

1. L'enfant.
2. Toute autre personne, y compris un frère ou une sœur de l'enfant et, dans le cas d'un enfant inuit, métis ou de Premières Nations, le représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.
3. La société.

Avis

(3) Le requérant visé à la disposition 2 du paragraphe (2) donne avis de sa requête à la société.

Obligation de la société de donner un avis de requête

(4) La société qui présente ou qui reçoit la requête prévue au paragraphe (2) en donne avis :

- a) à l'enfant, sous réserve des paragraphes 79 (4) et (5) (avis à l'enfant);
- b) à un parent de l'enfant;
- c) à la personne qui est responsable de l'enfant au moment de la requête;
- d) dans le cas d'un enfant inuit, métis ou de Premières Nations, aux personnes visées aux alinéas a), b) et c) et à un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Enfant de plus de 16 ans

(5) Aucune ordonnance portant sur le droit de visite à une personne de 16 ans ou plus ne doit être rendue en vertu du paragraphe (1) sans le consentement de cette personne.

Période de six mois

(6) Aucune personne, à l'exception d'une société, ne doit présenter la requête prévue au paragraphe (2) dans les six mois qui suivent le dernier en date des événements suivants :

- a) le moment où une ordonnance est rendue en vertu de l'article 101;
- b) le règlement d'une requête antérieure présentée par la même personne en vertu du paragraphe (2);
- c) le règlement d'une requête présentée en vertu de l'article 113 ou 115;
- d) le règlement définitif de l'appel ou le désistement d'appel de l'ordonnance visée à l'alinéa a), b) ou c),

Aucune requête si l'enfant est placé en vue de son adoption

(7) Une personne ou une société ne doit pas présenter la requête prévue au paragraphe (2) si les conditions suivantes sont réunies :

- a) l'enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c);
- b) il a été placé auprès d'une personne par la société ou le directeur en vue de son adoption sous le régime de la partie VIII (Adoption et délivrance de permis relatifs à l'adoption);
- c) il habite toujours chez cette personne.

Droit de visite si l'enfant est retiré des soins de la personne responsable

105 (1) Si une ordonnance est rendue en vertu de la disposition 1 ou 2 du paragraphe 101 (1) afin de retirer l'enfant des soins de la personne qui en était responsable immédiatement avant l'intervention prévue sous le régime de la présente partie, le

tribunal doit rendre une ordonnance accordant à cette personne un droit de visite, sauf s'il est convaincu que des contacts continus avec cette personne ne seraient pas dans l'intérêt véritable de l'enfant.

Droit de visite suite à l'ordonnance rendue en vertu de l'article 102

(2) Si une ordonnance de garde est rendue en vertu de l'article 102 afin de retirer l'enfant des soins de la personne qui en était responsable immédiatement avant l'intervention prévue sous le régime de la présente partie, le tribunal doit rendre une ordonnance accordant à cette personne un droit de visite, sauf s'il est convaincu que des contacts continus avec cette personne ne seraient pas dans l'intérêt véritable de l'enfant.

Droit de visite suite à l'ordonnance rendue en vertu du paragraphe 116 (1)

(3) Si une ordonnance de surveillance est rendue en vertu de l'alinéa 116 (1) a) ou qu'une ordonnance de garde est rendue en vertu de l'alinéa 116 (1) b), le tribunal doit rendre une ordonnance accordant un droit de visite à chaque personne qui avait un tel droit avant la présentation de la requête prévue à l'article 115 visant à obtenir l'ordonnance, sauf s'il est convaincu que des contacts continus avec la personne ne seraient pas dans l'intérêt véritable de l'enfant.

Révocation d'une ordonnance existante accordant un droit de visite

(4) Si le tribunal rend une ordonnance en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) pour qu'un enfant soit confié aux soins d'une société de façon prolongée, l'ordonnance de visite rendue à l'égard de l'enfant sous le régime de la présente partie est révoquée.

Ordonnance : droit de visiter un enfant confié aux soins d'une société de façon prolongée

(5) Le tribunal ne doit pas rendre ou modifier l'ordonnance de visite prévue à l'article 104 à l'égard d'un enfant confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c), à moins d'être convaincu que l'ordonnance ou la modification serait dans l'intérêt véritable de l'enfant.

Autres facteurs à prendre en considération : intérêt véritable

(6) Dans le cadre de son processus décisionnel relativement à la question de savoir si une ordonnance ou une modification serait dans l'intérêt véritable de l'enfant en application du paragraphe (5), le tribunal prend en considération ce qui suit :

- a) le fait de savoir si la relation entre la personne et l'enfant est bénéfique et importante pour l'enfant;
- b) s'il le juge pertinent, le fait de savoir si le droit de visite compromettra les possibilités futures d'adoption de l'enfant.

Titulaires et bénéficiaires d'un droit de visite

(7) Si le tribunal rend ou modifie l'ordonnance de visite prévue à l'article 104 à l'égard d'un enfant confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c), il précise ce qui suit :

- a) chaque personne qui s'est vu accorder un droit de visite;
- b) chaque personne à l'égard de laquelle un droit de visite a été accordé.

Révocation d'une ordonnance qui n'est plus dans l'intérêt véritable de l'enfant

(8) Le tribunal révoque l'ordonnance de visite à l'égard d'un enfant confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) si l'ordonnance n'est plus dans l'intérêt véritable de l'enfant, tel qu'il est établi en application du paragraphe (6).

Contacts ou communication permis par la société

(9) Si la société croit que les contacts ou la communication entre une personne et un enfant confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) sont dans l'intérêt véritable de l'enfant et qu'aucune ordonnance de communication prévue sous le régime de la partie VIII (Adoption et délivrance de permis relatifs à l'adoption) ou ordonnance de visite n'est en vigueur à l'égard de cette personne et de l'enfant, elle peut permettre ces contacts ou cette communication.

Révision de l'ordonnance de visite rendue en même temps qu'une ordonnance de garde

106 L'ordonnance de visite prévue à l'article 104 n'est pas susceptible de révision en application de la présente loi si elle est rendue en même temps que l'ordonnance de garde prévue à l'article 102. Toutefois, elle peut faire l'objet de la requête prévue à l'article 21 de la *Loi portant réforme du droit de l'enfance*, auquel cas les dispositions de cette loi s'appliquent comme si l'ordonnance avait été rendue sous le régime de celle-ci.

Restriction relative à l'ordonnance de visite

107 Si, en vertu de la présente loi, une société a demandé, par voie de requête, à un tribunal une ordonnance portant sur le droit d'un parent d'un enfant de visiter cet enfant et que le tribunal rend l'ordonnance, le tribunal précise dans l'ordonnance la surveillance à laquelle le droit de visite est assujéti si, au moment où l'ordonnance est rendue, le parent a été accusé ou

declare coupable d'une infraction au *Code criminel* (Canada) comportant un acte violent envers l'enfant ou son autre parent, à moins qu'il n'estime approprié de ne pas assujettir le droit de visite à cette surveillance.

ORDONNANCES DE PAIEMENT

Ordonnance de paiement par un parent

108 (1) Le tribunal qui confie l'enfant aux soins :

a) soit d'une société;

b) soit d'une personne autre que son parent, sous réserve de la surveillance par la société,

peut ordonner à un parent, ou à la succession d'un parent, de verser à la société un montant défini, à des intervalles précis, pour chaque jour où l'enfant est confié aux soins ou à la surveillance de la société.

Critères

(2) Lorsqu'il rend une ordonnance en vertu du paragraphe (1), le tribunal tient compte des critères suivants qu'il juge pertinents :

1. L'avoir et les ressources de l'enfant et de son parent, ou de la succession de son parent.
2. La capacité de l'enfant à subvenir à ses propres besoins.
3. La capacité du parent, ou de la succession du parent, de subvenir aux besoins de l'enfant.
4. L'âge et la santé physique et mentale de l'enfant et du parent.
5. Les besoins mentaux, affectifs et physiques de l'enfant.
6. L'obligation légale pour le parent, ou la succession du parent, de subvenir aux besoins d'une autre personne.
7. Les aptitudes de l'enfant et les possibilités raisonnables qu'il a de se faire instruire.
8. Les droits légaux de l'enfant à des aliments provenant d'une autre source que les fonds publics.

Cessation à 18 ans des effets de l'ordonnance

(3) Aucune ordonnance rendue en vertu du paragraphe (1) ne doit se prolonger au-delà du jour où l'enfant atteint l'âge de 18 ans.

Pouvoir de modifier l'ordonnance

(4) Le tribunal peut modifier, suspendre ou révoquer une ordonnance rendue en vertu du paragraphe (1) s'il est convaincu que les circonstances dans lesquelles se trouve l'enfant ou le parent ont changé.

Perception de montants par la municipalité

(5) Le conseil de la municipalité peut conclure une entente avec le conseil d'administration d'une société aux termes de laquelle la municipalité se charge de percevoir, pour le compte de la société, les montants qu'un parent est tenu de lui verser en application du paragraphe (1).

Exécution de l'ordonnance

(6) L'ordonnance rendue en vertu du paragraphe (1) contre un parent peut être exécutée comme s'il s'agissait d'une ordonnance alimentaire rendue sous le régime de la partie III de la *Loi sur le droit de la famille*.

ENFANTS CONFIÉS AUX SOINS D'UNE SOCIÉTÉ DE FAÇON PROVISOIRE OU PROLONGÉE

Placement des enfants

109 (1) Le présent article s'applique si l'enfant est confié aux soins d'une société soit de façon provisoire en application d'une ordonnance rendue en vertu de la disposition 2 du paragraphe 101 (1), soit de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c).

Placement

(2) La société à qui est confié le soin de l'enfant choisit un placement en établissement conforme aux critères suivants :

- a) il constitue, pour l'enfant, la solution la moins restrictive;
- b) il respecte, dans la mesure du possible, la race de l'enfant, son ascendance, son lieu d'origine, sa couleur, son origine ethnique, sa citoyenneté, la diversité de sa famille, sa croyance, son sexe, son orientation sexuelle, son identité sexuelle et l'expression de son identité sexuelle;
- c) il respecte, dans la mesure du possible, le patrimoine culturel et linguistique de l'enfant;
3. dans le cas d'un enfant inuit, métis ou de Premières Nations, il est auprès, si cela est possible, d'un membre de sa famille élargie ou, si cela est impossible :

- (i) dans le cas d'un enfant de Premières Nations, auprès d'une autre famille de Premières Nations,
- (ii) dans le cas d'un enfant inuit, auprès d'une autre famille inuite,
- (iii) dans le cas d'un enfant métis, auprès d'une autre famille métisse;
- e) il tient compte de l'opinion et des désirs de l'enfant, qui doivent être dûment pris en considération eu égard à son âge et à son degré de maturité, ainsi que de l'opinion et des désirs de tout parent qui a le droit de visiter l'enfant.

Enseignement

(3) La société à qui est confié le soin de l'enfant veille à ce que l'enfant reçoive un enseignement qui correspond à ses aptitudes et à ses talents.

Placement hors de l'Ontario

(4) La société à qui est confié le soin de l'enfant ne doit pas le placer hors de l'Ontario, ni permettre à qui que ce soit de retirer définitivement l'enfant de l'Ontario, sauf si le directeur est convaincu que des circonstances extraordinaires justifient une telle mesure.

Droits de l'enfant et des parents

(5) La société à qui est confié le soin de l'enfant :

- a) d'une part, veille à ce que l'enfant bénéficie de tous les droits visés à la partie II (Droits des enfants et des adolescents);
- b) d'autre part, veille à ce qu'il soit tenu compte, dans les décisions importantes qu'elle prend concernant l'enfant, des désirs de tout parent qui a le droit de visiter l'enfant et, si l'enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c), de ceux de tout parent de famille d'accueil auprès de qui l'enfant a demeuré de façon continue pendant deux ans.

Changement du placement

(6) La société à qui est confié le soin de l'enfant peut le retirer d'une famille d'accueil ou d'un autre placement en établissement si, de l'avis du directeur ou du directeur local, cette mesure est dans l'intérêt véritable de l'enfant.

Avis de proposition de retrait de l'enfant

(7) Si l'enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c), qu'il a demeuré auprès d'un parent de famille d'accueil de façon continue pendant deux ans et que la société propose de le retirer en vertu du paragraphe (6), la société prend les mesures suivantes :

- a) elle donne au parent de famille d'accueil un préavis écrit d'au moins 10 jours l'informant de sa proposition de retirer l'enfant et précisant qu'il a le droit de demander une révision en vertu du paragraphe (8);
- b) dans le cas d'un enfant inuit, métis ou de Premières Nations, elle donne le préavis exigé à l'alinéa a) et :
 - (i) d'une part, elle donne un préavis écrit d'au moins 10 jours de sa proposition de retirer l'enfant au représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient,
 - (ii) d'autre part, après avoir donné le préavis prévu au sous-alinéa (i), elle consulte les représentants choisis par les bandes et les communautés au sujet du programme de soins à fournir à l'enfant.

Demande de révision

(8) Un parent de famille d'accueil qui reçoit le préavis prévu à l'alinéa (7) a) peut, dans les 10 jours suivant la réception du préavis et conformément aux règlements, demander à la Commission de réviser la proposition de retrait de l'enfant.

Audience de la Commission

(9) Sur réception d'une demande de révision de la proposition de retrait d'un enfant présentée par un parent de famille d'accueil, la Commission tient une audience en application du présent article.

Enfant inuit, métis ou de Premières Nations

(10) Sur réception d'une demande de révision de la proposition de retrait d'un enfant inuit, métis ou de Premières Nations, la Commission donne également un avis de réception de la demande et de la date de l'audience au représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Règles de pratique et de procédure

(11) La *Loi sur l'exercice des compétences légales* s'applique à une audience visée au présent article. La Commission se conforme aux règles de pratique et de procédure supplémentaires prescrites.

Composition de la Commission

(12) Lorsqu'elle tient l'audience prévue au présent article, la Commission se compose de membres qui possèdent l'expérience et les qualités requises prescrites.

Parties

(13) Les personnes suivantes sont parties à l'audience prévue au présent article :

1. L'auteur de la demande.
2. La société.
3. Dans le cas d'un enfant inuit, métis ou de Premières Nations, les personnes visées aux dispositions 1 et 2 et un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.
4. Toute personne que la Commission joint comme partie en vertu du paragraphe (14).

Jonction de parties

(14) La Commission peut joindre une personne comme partie à la révision si, à son avis, cela est nécessaire afin de régler toutes les questions sur lesquelles porte la révision.

Décision de la Commission

(15) En fonction de la décision qu'elle a rendue relativement à la mesure adaptée à l'intérêt véritable de l'enfant, la Commission confirme la proposition de la société de retirer l'enfant ou ordonne à la société de ne pas donner suite à sa proposition. Elle donne les motifs de sa décision par écrit.

Décision préalable

(16) Sous réserve du paragraphe (17), la société ne doit pas donner suite à sa proposition de retrait de l'enfant, sauf si, selon le cas :

- a) le délai imparti pour demander la révision de la proposition de retrait de l'enfant prévu au paragraphe (8) a expiré et aucune demande n'a été présentée;
- b) dans le cas où une demande de révision de la proposition de retrait de l'enfant a été présentée en vertu du paragraphe (8), la Commission a confirmé la proposition de retrait en application du paragraphe (15).

Cas où l'enfant risque de subir des maux

(17) La société peut retirer l'enfant de la famille d'accueil avant l'expiration du délai imparti pour demander une révision prévu au paragraphe (8) ou après la présentation de la demande de révision si, de l'avis du directeur local, l'enfant risque vraisemblablement de subir des maux pendant le laps de temps nécessaire à la révision de cette décision par la Commission.

Examen de certains placements

(18) Les articles 63, 64, 65 et 66 (examen par le comité consultatif sur les placements en établissement, autre révision par la Commission) s'appliquent, avec les adaptations nécessaires, au placement en établissement effectué par la société en vertu du présent article.

Définition

(19) La définition qui suit s'applique au présent article.

«placement en établissement» S'entend au sens de l'article 62.

Enfant confié aux soins d'une société de façon provisoire

110 (1) Si un enfant est confié aux soins d'une société de façon provisoire en application d'une ordonnance rendue en vertu de la disposition 2 du paragraphe 101 (1), la société assume les droits et les responsabilités d'un parent en ce qui concerne les soins à donner à l'enfant, sa garde et sa surveillance.

Consentement au traitement : la société ou le parent peut agir

(2) Si un enfant est confié aux soins d'une société de façon provisoire en application d'une ordonnance rendue en vertu de la disposition 2 du paragraphe 101 (1) et qu'il est jugé incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, la société peut agir à la place d'un parent pour ce qui est de consentir au traitement au nom de l'enfant, sauf si le tribunal ordonne que le parent conserve le pouvoir, en application de cette loi, de consentir ou non à ce traitement au nom de l'enfant jugé incapable.

Exception

(3) Le tribunal ne doit pas rendre l'ordonnance prévue au paragraphe (2) si le défaut de consentir au traitement nécessaire a constitué un motif pour établir que l'enfant avait besoin de protection.

Autorisation du tribunal : consentement donné par la société

(4) Si un parent visé par une ordonnance rendue en vertu du paragraphe (2) refuse ou n'est pas en mesure de donner son consentement à un traitement destiné à un enfant jugé incapable, ou n'est pas disponible pour le faire, et que le tribunal est convaincu que ce traitement serait dans l'intérêt véritable de l'enfant, le tribunal peut autoriser la société à agir à la place d'un parent pour ce qui est de consentir à ce traitement au nom de l'enfant.

Consentement au mariage d'un enfant

(5) Si un enfant est confié aux soins d'une société de façon provisoire en application d'une ordonnance rendue en vertu de la disposition 2 du paragraphe 101 (1), le parent de l'enfant conserve le droit que peut lui reconnaître la *Loi sur le mariage* de donner ou de refuser son consentement au mariage de l'enfant.

Enfant confié aux soins d'une société de façon prolongée

111 (1) Si un enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c), la Couronne assume les droits et les responsabilités d'un parent en ce qui concerne les soins à donner à l'enfant, sa garde et sa surveillance. Les pouvoirs, fonctions et obligations de la Couronne à l'égard de l'enfant, sauf ceux que la présente loi ou les règlements confient au directeur, sont assumés par la société aux soins de laquelle l'enfant est confié.

Consentement au traitement donné par la société

(2) Si un enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) et qu'il est jugé incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, la société peut agir à la place d'un parent pour ce qui est de consentir à ce traitement au nom de l'enfant.

Obligation de la société : favoriser la création de liens familiaux pour un enfant confié à ses soins de façon prolongée

112 Si un enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c), la société fait tous les efforts raisonnables pour l'aider à développer des relations positives, solides et durables au sein d'une famille au moyen d'une des mesures suivantes :

1. L'adoption.
2. Une ordonnance de garde prévue au paragraphe 116 (1).
3. Dans le cas d'un enfant inuit, métis ou de Premières Nations :
 - i. un programme de soins conformes aux traditions,
 - ii. l'adoption,
 - iii. une ordonnance de garde prévue au paragraphe 116 (1).

RÉVISION**Révision du statut de l'enfant**

113 (1) Le présent article s'applique si l'enfant fait l'objet soit d'une ordonnance de surveillance par la société rendue en vertu de la disposition 1 ou 4 du paragraphe 101 (1), soit d'une ordonnance rendue en vertu de la disposition 2 du paragraphe 101 (1) ayant pour effet de confier l'enfant aux soins d'une société de façon provisoire.

Révision demandée par la société

(2) La société qui a le soin, la garde ou la surveillance de l'enfant :

- a) peut, à tout moment, présenter une requête au tribunal en vue de faire réviser le statut de l'enfant;
- b) doit, avant l'expiration de l'ordonnance, présenter une requête au tribunal en vue de faire réviser le statut de l'enfant, sauf si l'ordonnance expire par l'effet de l'article 123;
- c) doit, dans les cinq jours du retrait de l'enfant, présenter une requête au tribunal en vue de faire réviser le statut de l'enfant, si la société l'a retiré des soins d'une personne auprès de qui il était placé en application d'une ordonnance de surveillance par la société.

Application des alinéas (2) a) et c)

(3) Si l'enfant fait l'objet d'une ordonnance de surveillance par la société, les alinéas (2) a) et c) s'appliquent également à la société qui a compétence dans le comté ou le district où réside le parent ou l'autre personne auprès de qui il est placé.

Révision du statut demandé par d'autres personnes

(4) L'une ou l'autre des personnes suivantes peut présenter une requête en révision du statut de l'enfant et communiquer un avis à cet effet à la société :

- a) l'enfant, s'il a au moins 12 ans;
- b) un parent de l'enfant;
- c) la personne auprès de qui l'enfant a été placé en application d'une ordonnance de surveillance par la société;
- d) dans le cas d'un enfant inuit, métis ou de Premières Nations, la personne visée à l'alinéa a), b) ou c) ou le représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Avis

(5) La société qui présente une requête en application du paragraphe (2) ou qui reçoit l'avis d'une requête prévu au paragraphe (4) donne avis de la requête aux personnes suivantes :

- a) l'enfant, sauf disposition contraire du paragraphe 79 (4) ou (5);
- b) un parent de l'enfant;
- c) la personne auprès de qui l'enfant a été placé en application d'une ordonnance de surveillance par la société;
- d) tout parent de famille d'accueil qui a pris soin de l'enfant de façon continue pendant les six mois qui ont précédé la requête;
- e) dans le cas d'un enfant inuit, métis ou de Premières Nations, les personnes visées aux alinéas a), b), c) et d) et le représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Période de six mois

(6) Aucune requête ne doit être présentée en vertu du paragraphe (4) dans les six mois qui suivent le dernier en date des jours suivants :

- a) le jour où l'ordonnance originale a été rendue en vertu du paragraphe 101 (1);
- b) le jour du règlement de la dernière requête prévue au paragraphe (4);
- c) le jour du règlement définitif ou du désistement de l'appel de l'ordonnance visée à l'alinéa a) ou de la décision visée à l'alinéa b).

Exception

(7) Le paragraphe (6) ne s'applique pas si le tribunal est convaincu qu'un élément important du programme portant sur les soins à fournir à l'enfant et figurant dans la décision du tribunal n'est pas mis en application.

Soins et garde provisoires

(8) Si une requête est présentée en vertu du présent article, l'enfant reste confié aux soins et à la garde de la personne ou de la société qui en est responsable et ce, jusqu'au règlement de la requête, à moins que le tribunal ne soit convaincu qu'il est dans l'intérêt véritable de l'enfant de procéder à un changement.

Modification de l'ordonnance

114 Si une requête est présentée en vertu de l'article 113 en vue de faire réviser le statut de l'enfant, le tribunal peut, dans l'intérêt véritable de l'enfant :

- a) modifier ou révoquer l'ordonnance originale rendue en vertu du paragraphe 101 (1), y compris une condition ou une disposition relative au droit de visite qui fait partie de l'ordonnance;
- b) ordonner la révocation de l'ordonnance originale à une date ultérieure précise;
- c) rendre une ou plusieurs ordonnances supplémentaires en application de l'article 101;
- d) rendre une ordonnance en vertu de l'article 102.

Révision du statut : cas où différentes ordonnances ont été rendues

115 (1) Le présent article s'applique si un enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) ou qu'il fait l'objet d'une ordonnance de surveillance par la société rendue en vertu de l'alinéa 116 (1) a) ou d'une ordonnance de garde rendue en vertu de l'alinéa 116 (1) b).

Demande de révision par la société

(2) La société qui a ou avait le soin, la garde ou la surveillance de l'enfant :

- a) peut, à tout moment, sous réserve du paragraphe (9), présenter une requête au tribunal en vue de faire réviser le statut de l'enfant;

- b) doit, avant l'expiration de l'ordonnance, présenter une requête au tribunal en vue de faire réviser le statut de l'enfant, s'il s'agit d'une ordonnance de surveillance par la société, sauf si l'ordonnance expire par l'effet de l'article 123;
- c) doit, dans les cinq jours suivant le retrait de l'enfant, présenter une requête au tribunal en vue de faire réviser le statut de l'enfant, si elle l'a retiré, selon le cas :
 - (i) des soins d'une personne auprès de qui il était placé en application d'une ordonnance de surveillance par la société rendue en vertu de l'alinéa 116 (1) a),
 - (ii) de la garde d'une personne qui en avait la garde en application d'une ordonnance de garde rendue en vertu de l'alinéa 116 (1) b).

Application des alinéas (2) a) et c)

(3) Les alinéas (2) a) et c) s'appliquent également à la société qui a compétence dans le comté ou le district :

- a) où réside le parent ou l'autre personne auprès de qui l'enfant est placé, si l'enfant fait l'objet d'une ordonnance de surveillance par la société rendue en vertu de l'alinéa 116 (1) a);
- b) où réside la personne qui a la garde de l'enfant, si l'enfant fait l'objet de l'ordonnance de garde prévue à l'alinéa 116 (1) b).

Demande d'une révision par d'autres personnes

(4) L'une ou l'autre des personnes suivantes peut présenter, sur avis adressé à la société, la requête en révision du statut de l'enfant prévue au présent article :

- a) l'enfant, s'il a au moins 12 ans;
- b) un parent de l'enfant;
- c) la personne auprès de qui l'enfant a été placé en application d'une ordonnance de surveillance par la société rendue en vertu de l'alinéa 116 (1) a);
- d) la personne à qui la garde de l'enfant a été accordée, si l'enfant fait l'objet de l'ordonnance de garde rendue en vertu de l'alinéa 116 (1) b);
- e) un parent de famille d'accueil, si l'enfant a résidé de façon continue avec cette personne pendant au moins les deux années qui ont précédé la requête;
- f) dans le cas d'un enfant inuit, métis ou de Premières Nations, la personne visée à l'alinéa a), b), c), d) ou e) ou le représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Autorisation du tribunal requise

(5) Malgré l'alinéa (4) b), un parent de l'enfant ne doit pas présenter de requête en vertu du paragraphe (4) sans l'autorisation du tribunal si l'enfant a reçu des soins continus du même parent de famille d'accueil ou de la même personne en application d'une ordonnance de garde pendant au moins les deux années qui ont précédé la requête.

Avis

(6) La société qui présente une requête en vertu du paragraphe (2) ou qui reçoit l'avis d'une requête prévu au paragraphe (4) donne avis de la requête aux personnes suivantes :

- a) l'enfant, sauf disposition contraire du paragraphe 79 (4) ou (5);
- b) un parent de l'enfant, si l'enfant a moins de 16 ans;
- c) la personne auprès de qui l'enfant a été placé, si l'enfant fait l'objet d'une ordonnance de surveillance par la société rendue en vertu de l'alinéa 116 (1) a);
- d) la personne à qui la garde de l'enfant a été accordée, si l'enfant fait l'objet d'une ordonnance de garde rendue en vertu de l'alinéa 116 (1) b);
- e) tout parent de famille d'accueil qui a pris soin de l'enfant de façon continue pendant les six mois qui ont précédé la requête;
- f) dans le cas d'un enfant inuit, métis ou de Premières Nations, les personnes visées à l'alinéa a), b), c), d) ou e) et le représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Période de six mois

(7) Aucune requête ne doit être présentée en vertu du paragraphe (4) dans les six mois qui suivent le dernier en date des jours suivants :

- a) le jour où l'ordonnance a été rendue en vertu du paragraphe 101 (1) ou 116 (1), selon le cas;
- b) le jour du règlement de la dernière requête prévue au paragraphe (4);
- c) le jour du règlement définitif ou du désistement de l'appel de l'ordonnance visée à l'alinéa a) ou de la décision visée à l'alinéa b).

Exception

(8) Le paragraphe (7) ne s'applique pas si :

- a) d'une part, l'enfant fait l'objet, selon le cas :
 - (i) d'une ordonnance de surveillance par la société rendue en vertu de l'alinéa 116 (1) a),
 - (ii) d'une ordonnance de garde rendue en vertu de l'alinéa 116 (1) b),
 - (iii) d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) et ayant pour effet de confier l'enfant aux soins d'une société de façon prolongée, et d'une ordonnance de visite rendue en vertu de l'article 104;
- b) d'autre part, le tribunal est convaincu qu'un élément important du programme de soins à fournir à l'enfant qu'il a précisé dans sa décision n'est pas mis en application.

Aucune révision si l'enfant est placé en vue de son adoption

(9) Aucune personne ou société ne doit présenter une requête en vertu du présent article à l'égard d'un enfant qui est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) et qui est placé auprès d'une personne par la société ou le directeur en vue de son adoption sous le régime de la partie VIII (Adoption et délivrance de permis relatifs à l'adoption) si l'enfant habite toujours chez cette personne.

Soins et garde provisoires

(10) Si une requête est présentée en vertu du présent article, l'enfant reste confié aux soins et à la garde de la personne ou de la société qui en est responsable et ce, jusqu'au règlement de la requête, à moins que le tribunal ne soit convaincu qu'il est dans l'intérêt véritable de l'enfant de procéder à un changement.

Ordonnance du tribunal

116 (1) Si une requête en révision du statut d'un enfant est présentée en vertu de l'article 115, le tribunal peut, dans l'intérêt véritable de l'enfant :

- a) ordonner que l'enfant soit confié aux soins et à la garde d'un parent ou d'une autre personne, sous réserve de la surveillance par la société, pendant une période précise comprise entre 3 et 12 mois;
- b) ordonner que la garde de l'enfant soit accordée à une ou plusieurs personnes, y compris un parent de famille d'accueil, avec le consentement de cette ou ces personnes;
- c) ordonner que l'enfant soit confié aux soins de la société de façon prolongée jusqu'à ce que l'ordonnance soit révoquée en application du présent article ou jusqu'à ce qu'elle expire en application de l'article 123;
- d) révoquer ou modifier l'ordonnance rendue en vertu de l'article 101 ou du présent article.

Modification, révocation ou nouvelle ordonnance

(2) Lorsqu'il rend une ordonnance en vertu du paragraphe (1), le tribunal peut, sous réserve de l'article 105, modifier ou révoquer une ordonnance de visite ou rendre une nouvelle ordonnance en vertu de l'article 104.

Révocation d'une ordonnance ayant pour effet de confier l'enfant aux soins d'une société de façon prolongée

(3) Toute ordonnance rendue antérieurement en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa (1) c) et ayant pour effet de confier un enfant aux soins d'une société de façon prolongée est révoquée si une ordonnance prévue à l'alinéa (1) a) ou b) est rendue à l'égard de l'enfant.

Ordonnance de surveillance assortie de conditions

(4) S'il rend une ordonnance de surveillance en vertu de l'alinéa (1) a), le tribunal peut imposer :

- a) des conditions raisonnables relativement à la surveillance de l'enfant et aux soins à lui donner;
- b) des conditions raisonnables aux personnes suivantes :
 - (i) un parent de l'enfant,
 - (ii) la personne aux soins et à la garde de laquelle l'enfant sera confié en application de l'ordonnance,
 - (iii) l'enfant.

- (iv) toute autre personne, à l'exception d'un parent de famille d'accueil, qui propose un programme de soins et de garde ou un programme de droit de visite à l'égard de l'enfant ou qui participerait à un tel programme;
- c) des conditions raisonnables à la société qui surveillera le placement, sans toutefois exiger qu'elle fournisse une aide financière ou qu'elle achète des biens ou des services.

Droit de visite

(5) L'article 105 s'applique, avec les adaptations nécessaires, si le tribunal rend une ordonnance prévue à l'alinéa (1) a), b) ou c).

Instance relative à la garde

(6) L'ordonnance rendue en vertu du présent article ou l'instance introduite sous le régime de la présente partie a pour effet de surseoir à toute instance relative à la garde du même enfant ou au droit de visiter cet enfant introduite sous le régime de la *Loi portant réforme du droit de l'enfance*, sauf autorisation du tribunal dans cette dernière instance.

Droits et responsabilités

(7) La personne à qui la garde d'un enfant est accordée en application d'une ordonnance prévue au présent article possède les droits et les responsabilités d'un parent à l'égard de l'enfant et doit exercer ces droits et assumer ces responsabilités dans l'intérêt véritable de l'enfant.

Révision annuelle d'une ordonnance par le directeur

117 (1) Au moins une fois au cours de chaque année civile, le directeur ou la personne qu'il autorise effectue la révision du statut de l'enfant qui réunit les conditions suivantes :

- a) il est confié aux soins d'une société de façon prolongée en application de l'ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c);
- b) il était confié aux soins d'une société de façon prolongée en application d'une ordonnance visée à l'alinéa a) au cours des 24 mois précédents;
- c) son statut n'a pas, au cours de cette période, fait l'objet d'une révision en application du présent article ou de l'article 116.

Directive à la société

(2) À l'issue de la révision prévue au paragraphe (1), le directeur peut ordonner à la société de présenter la requête en révision visée au paragraphe 115 (2) ou donner toute autre directive qui, à son avis, est dans l'intérêt véritable de l'enfant.

Enquête du juge

118 (1) Le ministre peut nommer un juge de la Cour de l'Ontario pour enquêter sur une question relative à un enfant confié aux soins d'une société ou à la bonne application de la présente partie. Le juge nommé effectue cette enquête et présente son rapport écrit au ministre.

Application de la Loi de 2009 sur les enquêtes publiques

(2) L'article 33 de la *Loi de 2009 sur les enquêtes publiques* s'applique à une enquête effectuée par un juge en vertu du paragraphe (1).

Plainte à une société

119 (1) Une personne peut, conformément aux règlements, présenter une plainte à une société concernant un service qu'elle lui a demandé ou que la société lui a fourni.

Procédure d'examen des plaintes

(2) Lorsqu'elle reçoit une plainte présentée en vertu du paragraphe (1), la société la traite conformément à la procédure d'examen des plaintes établie par règlement, sous réserve du paragraphe 120 (2).

Mise à la disposition du public

(3) La société met les renseignements relatifs à la procédure d'examen des plaintes à la disposition du public et de toute personne qui en fait la demande.

Décision de la société

(4) Sous réserve du paragraphe (5), la décision que prend la société à l'issue de la procédure d'examen des plaintes est définitive.

Demande de révision présentée à la Commission

(5) Si une plainte se rapporte à l'une ou l'autre des questions suivantes, le plaignant peut demander à la Commission, conformément aux règlements, de réviser la décision prise par la société à l'issue de la procédure d'examen des plaintes :

1. Une question visée au paragraphe 120 (4).
2. Toute autre question prescrite.

Révision effectuée par la Commission

(6) Sur réception d'une requête présentée en vertu du paragraphe (5), la Commission avise la société de la requête et procède à la révision de sa décision.

Composition de la Commission

(7) La Commission se compose de membres qui possèdent l'expérience et les qualités requises prescrites.

Audience facultative

(8) La Commission peut tenir une audience, auquel cas elle se conforme aux règles de pratique et de procédure prescrites.

Non-application

(9) La *Loi sur l'exercice des compétences légales* ne s'applique pas à une audience visée au présent article.

Décision de la Commission

(10) À l'issue de la révision de la décision prise par une société à l'égard d'une plainte, la Commission peut :

- a) s'il s'agit d'une question visée au paragraphe 120 (4), rendre toute ordonnance prévue au paragraphe 120 (7), selon ce qui est approprié;
- b) renvoyer la question à la société pour un autre examen;
- c) confirmer la décision de la société;
- d) rendre toute autre ordonnance prescrite.

Questions du ressort du tribunal

(11) Une société ne doit pas examiner une plainte présentée en vertu du présent article si l'objet de la plainte, selon le cas :

- a) est une question que le tribunal a tranchée ou dont il est saisi;
- b) est assujéti à un autre processus décisionnel prévu par la présente loi ou la *Loi de 1995 sur les relations de travail*.

Plainte à la Commission

120 (1) Si une plainte concernant un service demandé à une société ou que celle-ci a fourni se rapporte à une question visée au paragraphe (4), la personne qui a demandé le service ou qui l'a obtenu peut, selon le cas :

- a) décider de ne pas présenter la plainte à la société en vertu de l'article 119 et la présenter directement à la Commission en vertu du présent article;
- b) si elle présente d'abord la plainte à la société en vertu de l'article 119, la présenter à la Commission avant l'issue de la procédure d'examen des plaintes de la société.

Avis à la société

(2) Si une personne présente une plainte à la Commission en vertu de l'alinéa (1) b) après l'avoir présentée à la société en vertu de l'article 119, la Commission en avise la société, laquelle peut mettre fin à son examen ou le suspendre, selon ce qu'elle estime approprié.

Plainte présentée à la Commission

(3) La plainte présentée à la Commission en vertu du présent article doit l'être conformément aux règlements.

Questions pouvant faire l'objet d'une révision

(4) Les questions suivantes peuvent faire l'objet d'une révision par la Commission conformément au présent article :

1. Des allégations selon lesquelles la société a refusé de traiter une plainte présentée par le plaignant en vertu du paragraphe 119 (1) comme l'exige le paragraphe 119 (2).
2. Des allégations selon lesquelles la société n'a pas répondu à la plainte dans le délai exigé par règlement.
3. Des allégations selon lesquelles la société ne s'est pas conformée à la procédure d'examen des plaintes ou à toute autre exigence en matière de procédure prévue par la présente loi en ce qui concerne l'examen des plaintes.
4. Des allégations selon lesquelles la société ne s'est pas conformée au paragraphe 15 (2).
5. Des allégations selon lesquelles la société n'a pas donné au plaignant les motifs d'une décision qui concerne ses intérêts.

6. Toute autre question prescrite.

Révision effectuée par la Commission

(5) Sur réception d'une plainte présentée en vertu du présent article, la Commission procède à la révision de la question.

Application

(6) Les paragraphes 119 (7), (8) et (9) s'appliquent, avec les adaptations nécessaires, à la révision d'une plainte présentée en vertu du présent article.

Décision de la Commission

(7) Après avoir révisé la plainte, la Commission peut :

- a) ordonner à la société de traiter la plainte présentée par le plaignant conformément à la procédure d'examen des plaintes établie par règlement;
- b) ordonner à la société de fournir une réponse au plaignant dans le délai que la Commission précise;
- c) ordonner à la société de se conformer à la procédure d'examen des plaintes établie par règlement ou à toute autre exigence prévue par la présente loi;
- d) ordonner à la société de fournir au plaignant les motifs écrits d'une décision;
- e) rejeter la plainte;
- f) rendre toute autre ordonnance prescrite.

Questions du ressort du tribunal

(8) La Commission ne doit pas réviser une plainte présentée en vertu du présent article si l'objet de la plainte, selon le cas :

- a) est une question que le tribunal a tranchée ou dont il est saisi;
- b) est assujéti à un autre processus décisionnel prévu par la présente loi ou la *Loi de 1995 sur les relations de travail*.

APPELS

Appel

121 (1) Il peut être interjeté appel devant la Cour supérieure de justice d'une ordonnance du tribunal rendue en vertu de la présente partie. Peut faire appel :

- a) l'enfant, s'il a le droit de participer à l'instance en vertu du paragraphe 79 (6) (participation de l'enfant);
- b) un parent de l'enfant;
- c) la personne qui était responsable de l'enfant immédiatement avant l'intervention prévue sous le régime de la présente partie;
- d) le directeur ou le directeur local;
- e) dans le cas d'un enfant inuit, métis ou de Premières Nations, la personne visée à l'alinéa a), b), c) ou d) ou le représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Exception

(2) Le paragraphe (1) ne s'applique pas à l'ordonnance portant sur l'évaluation visée à l'article 98.

Soins et garde de l'enfant pendant l'appel

(3) Si la décision concernant les soins et la garde de l'enfant est portée en appel en vertu du paragraphe (1), il est sursis à l'exécution de la décision pendant les 10 jours qui suivent la signification de l'avis d'appel au tribunal qui a rendu la décision. Si l'enfant est confié aux soins et à la garde de la société lorsque la décision est rendue, il reste aux soins et à la garde de la société jusqu'à ce que se réalise la première des éventualités suivantes :

- a) la période prévue de 10 jours arrive à expiration;
- b) une ordonnance est rendue en vertu du paragraphe (4).

Ordonnance provisoire

(4) Dans l'intérêt véritable de l'enfant, la Cour supérieure de justice peut rendre une ordonnance provisoire portant sur les soins et la garde de l'enfant en attendant le règlement définitif de l'appel. À la suite d'une motion présentée par une partie avant le règlement définitif de l'appel, la Cour peut modifier ou révoquer l'ordonnance ou en rendre une autre.

Non-prorogation du délai

(5) Si l'enfant a été placé en vue de son adoption sous le régime de la partie VIII (Adoption et délivrance de permis relatifs à l'adoption), aucune prorogation du délai d'appel n'est accordée.

Preuve supplémentaire

(6) La Cour peut recevoir des éléments de preuve supplémentaires qui se rapportent à des événements postérieurs à la décision portée en appel.

Lieu de l'audience

(7) L'appel interjeté en vertu du présent article est entendu dans le comté ou le district où l'ordonnance faisant l'objet de l'appel a été rendue.

Champ d'application de l'article 87

(8) L'article 87 (règles relatives aux audiences) s'applique, avec les adaptations nécessaires, à l'appel interjeté en vertu du présent article.

EXPIRATION DES ORDONNANCES**Délai**

122 (1) Sous réserve des paragraphes (4) et (5), le tribunal ne doit pas rendre une ordonnance en vertu de la disposition 2 du paragraphe 101 (1) ayant pour effet de confier un enfant aux soins et à la garde d'une société de façon provisoire pendant une période supérieure à ce qui suit :

- a) 12 mois, si l'enfant a moins de 6 ans le jour où le tribunal rend l'ordonnance;
- b) 24 mois, si l'enfant a 6 ans ou plus le jour où le tribunal rend l'ordonnance.

Calcul du délai

(2) La période pendant laquelle l'enfant a été confié aux soins et à la garde d'une société conformément à l'une ou l'autre des mesures suivantes entre dans le calcul de la période visée au paragraphe (1) :

1. Une entente conclue en vertu du paragraphe 75 (1) (entente relative à des soins temporaires).
2. Une ordonnance provisoire rendue en vertu de l'alinéa 94 (2) d) (garde de l'enfant pendant l'ajournement).

Périodes antérieures prises en compte

(3) La période mentionnée au paragraphe (1) doit comprendre les périodes antérieures pendant lesquelles l'enfant était confié aux soins et à la garde d'une société en application d'une ordonnance rendue en vertu de la disposition 2 du paragraphe 101 (1) ayant pour effet de confier l'enfant aux soins d'une société de façon provisoire ou dans les cas visés au paragraphe (2), à l'exclusion de toute période précédant une période continue d'au moins cinq ans pendant laquelle l'enfant n'était pas confié aux soins et à la garde d'une société.

Délai réputé prorogé

(4) Si la période visée au paragraphe (1) ou (5) expire et que l'un ou l'autre des événements suivants se réalise :

- a) un appel d'une ordonnance rendue en vertu du paragraphe 101 (1) a été interjeté, mais n'est pas encore réglé;
- b) le tribunal a ajourné l'audience prévue à l'article 114 (révision du statut de l'enfant),

cette période est réputée prolongée soit jusqu'à ce que l'appel soit définitivement réglé et jusqu'à ce qu'une nouvelle audience ordonnée lors de l'appel prenne fin, soit jusqu'à ce qu'une ordonnance soit rendue en vertu de l'article 114.

Prolongation de six mois

(5) Sous réserve des dispositions 2 et 4 du paragraphe 101 (1), le tribunal peut rendre une ordonnance prolongeant d'une période maximale de six mois la période prévue au paragraphe (1), si cette mesure est dans l'intérêt véritable de l'enfant.

Expiration des ordonnances

123 Une ordonnance rendue en vertu de la présente partie expire lorsque le premier des événements suivants qui concerne l'enfant faisant l'objet de l'ordonnance se réalise :

- a) l'enfant atteint l'âge de 18 ans;
- b) l'enfant se marie.

SOINS ET SOUTIEN CONTINUS**Soins et soutien continus**

124 Une société ou une entité présente conclut une entente en vue de fournir des soins et un soutien à une personne conformément aux règlements dans chacune des circonstances suivantes :

1. L'ordonnance de garde prévue à l'alinéa 116 (1) b) ou l'ordonnance prévue à la disposition 3 du paragraphe 101 (1) ou à l'alinéa 116 (1) c) et ayant pour effet de confier un enfant aux soins d'une société de façon prolongée a été rendue à l'égard de cette personne pendant qu'elle était un enfant et elle expire en application de l'article 123.
2. La personne a conclu une entente avec la société en vertu de l'article 77 et l'entente expire au 18^e anniversaire de naissance de la personne.
3. La personne a 18 ans ou plus et elle était admissible à des services de soutien prescrits.
4. Dans le cas d'une personne inuite, métisse ou de Premières Nations de 18 ans ou plus, la disposition 1, 2 ou 3 s'applique ou cette personne recevait des soins conformes aux traditions immédiatement avant son 18^e anniversaire de naissance et la personne qui en avait soin recevait de la société ou d'une entité la subvention prévue à l'article 71.

OBLIGATION DE FAIRE RAPPORT

Obligation de déclarer le besoin de protection

125 (1) Malgré les dispositions de toute autre loi, une personne, notamment celle qui exerce des fonctions professionnelles ou officielles en rapport avec des enfants, qui a des motifs raisonnables de soupçonner l'existence de l'une ou l'autre des situations suivantes doit immédiatement déclarer ses soupçons à une société et fournir les renseignements sur lesquels ils se fondent :

1. Un enfant a subi des maux physiques infligés par la personne qui en est responsable ou, selon le cas :
 - i. causés par le défaut de cette personne de lui fournir des soins, de subvenir à ses besoins, de le surveiller ou de le protéger convenablement, ou résultant de ce défaut,
 - ii. causés par la négligence habituelle de cette personne pour ce qui est de lui fournir des soins, de subvenir à ses besoins, de le surveiller ou de le protéger, ou résultant de cette négligence.
2. Un enfant risque vraisemblablement de subir des maux physiques infligés par la personne qui en est responsable ou, selon le cas :
 - i. causés par le défaut de cette personne de lui fournir des soins, de subvenir à ses besoins, de le surveiller ou de le protéger convenablement, ou résultant de ce défaut,
 - ii. causés par la négligence habituelle de cette personne pour ce qui est de lui fournir des soins, de subvenir à ses besoins, de le surveiller ou de le protéger, ou résultant de cette négligence.
3. Un enfant a subi des mauvais traitements d'ordre sexuel ou a été exploité sexuellement par la personne qui en est responsable ou par une autre personne si la personne responsable de l'enfant sait ou devrait savoir qu'il existe un risque de mauvais traitements d'ordre sexuel ou d'exploitation sexuelle et qu'elle ne protège pas l'enfant.
4. Un enfant risque vraisemblablement de subir des mauvais traitements d'ordre sexuel ou d'être exploité sexuellement dans les circonstances mentionnées à la disposition 3.
5. Un enfant a besoin d'un traitement en vue de guérir, de prévenir ou de soulager des maux physiques ou sa douleur et son parent ou la personne qui en est responsable ne fournit pas le traitement ou n'y donne pas accès ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, refuse ou n'est pas en mesure de donner son consentement à ce traitement au nom de l'enfant, ou n'est pas disponible pour le faire.
6. Un enfant a subi des maux affectifs qui se traduisent, selon le cas, par :
 - i. un grave sentiment d'angoisse,
 - ii. un état dépressif grave,
 - iii. un fort repliement sur soi,
 - iv. un comportement autodestructeur ou agressif marqué,
 - v. un important retard dans son développement,et il existe des motifs raisonnables de croire que les maux affectifs que l'enfant a subis résultent des actes, du défaut d'agir ou de la négligence habituelle de son parent ou de la personne qui en est responsable.
7. Un enfant a subi le type de maux affectifs visés à la sous-disposition 6 i, ii, iii, iv ou v et son parent ou la personne qui en est responsable ne fournit pas des services ou un traitement afin de remédier à ces maux ou de les soulager ou n'y donne pas accès ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, refuse ou n'est pas en mesure de donner son consentement à ce traitement, ou n'est pas disponible pour le faire.
8. Un enfant risque vraisemblablement de subir le type de maux affectifs visés à la sous-disposition 6 i, ii, iii, iv ou v résultant des actes, du défaut d'agir ou de la négligence habituelle de son parent ou de la personne qui en est responsable.

9. Un enfant risque vraisemblablement de subir le type de maux affectifs visés à la sous-disposition 6 i, ii, iii, iv ou v et son parent ou la personne qui en est responsable ne fournit pas des services ou un traitement afin de prévenir ces maux ou n'y donne pas accès ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, refuse ou n'est pas en mesure de donner son consentement à ce traitement, ou n'est pas disponible pour le faire.
10. L'état mental ou affectif ou le trouble de développement d'un enfant risque, s'il n'y est pas remédié, de porter gravement atteinte à son développement et son parent ou la personne qui en est responsable ne fournit pas un traitement afin de remédier à cet état ou à ce trouble ou de le soulager ou n'y donne pas accès ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, refuse ou n'est pas en mesure de donner son consentement à ce traitement, ou n'est pas disponible pour le faire.
11. Le parent de l'enfant est décédé ou ne peut pas exercer ses droits de garde sur l'enfant et n'a pas pris de mesures suffisantes relativement à la garde de l'enfant et aux soins à lui fournir ou, si l'enfant est placé dans un établissement, le parent refuse d'en assumer à nouveau la garde et de lui fournir des soins, n'est pas en mesure de le faire ou n'est pas disposé à le faire.
12. Un enfant a moins de 12 ans et a tué ou gravement blessé une autre personne ou a causé des dommages importants aux biens d'une autre personne et doit subir un traitement ou recevoir des services afin d'empêcher la répétition de ces actes et le parent ou la personne qui est responsable de l'enfant ne fournit pas ces services ou ce traitement ou n'y donne pas accès ou, si l'enfant est incapable de consentir à un traitement, au sens de la *Loi de 1996 sur le consentement aux soins de santé*, refuse ou n'est pas en mesure de donner son consentement à ce traitement, ou n'est pas disponible pour le faire.
13. Un enfant a moins de 12 ans et a, à plusieurs reprises, blessé une autre personne ou causé une perte ou des dommages aux biens d'une autre personne, avec l'encouragement de la personne qui en est responsable ou en raison du défaut ou de l'incapacité de cette personne de surveiller l'enfant convenablement.

Obligation continue de faire rapport

- (2) La personne qui a d'autres motifs raisonnables de soupçonner l'une ou l'autre des situations mentionnées au paragraphe (1) doit faire un nouveau rapport en application du paragraphe (1), même si elle en a fait auparavant au sujet du même enfant.

Rapport direct

- (3) La personne qui a l'obligation de déclarer une situation en application du paragraphe (1) ou (2) la déclare directement à la société et ne doit pas compter sur une autre personne pour la faire en son nom.

Enfant plus âgé non visé par l'obligation de faire rapport

- (4) Les paragraphes (1) et (2) ne s'appliquent pas à l'égard d'un enfant de 16 ou 17 ans. Une personne peut toutefois faire un rapport en application du paragraphe (1) ou (2) à l'égard d'un enfant de 16 ou 17 ans s'il existe l'une ou l'autre des circonstances ou situations visées aux dispositions 1 à 11 du paragraphe (1) ou une circonstance ou situation prescrite.

Infraction

- (5) Est coupable d'une infraction la personne visée au paragraphe (6) si :

- a) d'une part, elle contrevient au paragraphe (1) ou (2) en ne déclarant pas un soupçon;
- b) d'autre part, les renseignements sur lesquels se fonde son soupçon ont été obtenus dans le cadre de l'exercice de ses fonctions professionnelles ou officielles.

Fonctions professionnelles et officielles

- (6) Le paragraphe (5) s'applique à quiconque exerce des fonctions professionnelles ou officielles en rapport avec des enfants, notamment :

- a) un professionnel de la santé, y compris un médecin, une infirmière ou un infirmier, un dentiste, un pharmacien et un psychologue;
- b) un enseignant, une personne nommée à un poste qu'un conseil de l'éducation a désigné comme exigeant un éducateur de la petite enfance, un directeur d'école, un travailleur social, un conseiller familial, un travailleur pour la jeunesse et les loisirs, un exploitant ou un employé d'un centre de garde ou d'une agence de services de garde en milieu familial, ou un fournisseur de services de garde agréés au sens de la *Loi de 2014 sur la garde d'enfants et la petite enfance*;
- c) un représentant religieux;
- d) un médiateur et un arbitre;
- e) un agent de la paix et un coroner;
- f) un avocat;
- g) un fournisseur de services et son employé.

Bénévoles exclus

(7) La définition qui suit s'applique à l'alinéa (6) b).

«travailleur pour la jeunesse et les loisirs» Ne s'entend pas d'un bénévole.

Administrateur, dirigeant ou employé d'une personne morale

(8) L'administrateur, le dirigeant ou l'employé d'une personne morale qui autorise ou permet la commission d'une infraction prévue au paragraphe (5) par un employé de la personne morale ou y participe est coupable d'une infraction.

Peine

(9) La personne qui est déclarée coupable d'une infraction prévue au paragraphe (5) ou (8) est passible d'une amende d'au plus 5 000 \$.

Caractère prépondérant du présent article et immunité

(10) Le présent article s'applique même si les renseignements déclarés sont confidentiels ou privilégiés. Sont irrecevables les actions intentées contre l'auteur du rapport qui agit conformément au présent article, sauf s'il agit dans l'intention de nuire ou sans motif raisonnable de soupçonner la situation en question.

Secret professionnel de l'avocat

(11) Le présent article ne porte pas atteinte au secret professionnel qui lie l'avocat à son client.

Incompatibilité

(12) Le présent article l'emporte sur toute disposition de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*.

Rapport relatif à un enfant ayant besoin de protection : évaluation et vérification par la société

126 (1) La société qui reçoit, en application de l'article 125, un rapport selon lequel un enfant, y compris un enfant confié à ses soins ou sous sa surveillance, a besoin ou peut avoir besoin de protection effectue dès que possible une évaluation comme il est prescrit et vérifie les renseignements qui lui sont fournis, ou veille à ce qu'une autre société les évalue et les vérifie.

Immunité

(2) Sont irrecevables les actions ou autres instances en dommages-intérêts introduites contre un dirigeant ou un employé de la société, qui agit de bonne foi, pour un acte accompli dans l'exercice effectif ou censé tel d'une obligation imposée à la société en application du paragraphe (1) ou pour une négligence ou un manquement qu'il aurait commis dans l'exercice de cette obligation.

Rapport obligatoire par la société : cas où un enfant confié à ses soins et à sa garde subit des mauvais traitements

127 (1) La société qui obtient des renseignements selon lesquels un enfant confié à ses soins et à sa garde subit des mauvais traitements, peut en subir ou peut en avoir subi communiquer ces renseignements au directeur dès que possible.

Définition

(2) La définition qui suit s'applique au présent article et aux articles 129 et 133.

«subir des mauvais traitements» En ce qui concerne un enfant, avoir besoin de protection au sens de l'alinéa 74 (2) a), c), e), f), g) ou j).

Obligation de signaler le décès d'un enfant

128 La personne ou la société qui obtient des renseignements selon lesquels un enfant est décédé les communique à un coroner si les conditions suivantes sont réunies :

- a) un tribunal a rendu, sous le régime de la présente loi, une ordonnance refusant à un parent de l'enfant le droit de visiter l'enfant ou assujettissant ce droit à une surveillance;
- b) sur requête d'une société, un tribunal a modifié l'ordonnance de manière à accorder le droit de visite ou à ne plus l'assujettir à une surveillance;
- c) l'enfant est décédé par suite d'un acte criminel commis par un parent ou un membre de sa famille pendant qu'il était sous sa garde ou sa responsabilité.

GROUPES D'ÉTUDE**Groupe d'étude**

129 (1) La définition qui suit s'applique au présent article.

«groupe d'étude» S'entend d'un groupe créé par une société en application du paragraphe (2).

Composition

(2) Chaque société crée un groupe d'étude comprenant :

- a) d'une part, des personnes qui possèdent les qualités professionnelles requises pour effectuer des évaluations d'ordre médical, psychologique, scolaire ou social ou des évaluations du développement;
- b) d'autre part, au moins un médecin dûment qualifié.

Président

(3) Les membres du groupe d'étude choisissent un président parmi eux.

Obligation du groupe

(4) Toutes les fois que la société renvoie à un groupe d'étude le cas d'un enfant qui peut subir ou avoir subi des mauvais traitements, le groupe, ou un comité d'au moins trois de ses membres désignés par le président :

- a) étudie le cas;
- b) recommande à la société la manière de protéger l'enfant.

Divulgaration permise

(5) Malgré toute autre loi, une personne peut divulguer au groupe d'étude, ou à l'un de ses membres, les renseignements raisonnablement requis pour mener l'étude prévue au paragraphe (4).

Caractère prédominant du présent article et immunité

(6) Le paragraphe (5) s'applique même si les renseignements divulgués sont confidentiels ou privilégiés. Est irrecevable l'action intentée contre l'auteur de la divulgation qui agit conformément au paragraphe (5), sauf s'il agit dans l'intention de nuire ou sans motif raisonnable.

Étude ou audience nécessaire

(7) La société qui a créé un groupe d'étude et qui détient des renseignements selon lesquels un enfant confié à ses soins en application du paragraphe 94 (2) (garde de l'enfant pendant l'ajournement) ou du paragraphe 101 (1) (ordonnance si l'enfant a besoin de protection) peut avoir subi des mauvais traitements ne doit pas rendre l'enfant aux soins de la personne qui en était responsable au moment où seraient survenus ces mauvais traitements, sauf si, selon le cas :

- a) elle a fait ce qui suit :
 - (i) elle a renvoyé le cas au groupe d'étude,
 - (ii) elle a reçu et étudié les recommandations du groupe d'étude;
- b) le tribunal a révoqué l'ordonnance confiant l'enfant aux soins de la société.

ACCÈS AUX DOSSIERS PAR ORDONNANCE**Production de dossiers****Définition**

130 (1) La définition qui suit s'applique au présent article et aux articles 131 et 132.

«dossier de renseignements personnels sur la santé» S'entend au sens de la *Loi sur la santé mentale*.

Motion ou requête : production d'un dossier

(2) Le directeur ou la société peut, à tout moment, par motion ou requête, demander que soit rendue l'ordonnance de production de tout ou partie d'un dossier prévue au paragraphe (3) ou (4).

Ordonnance sur motion

(3) Si le tribunal est convaincu que tout ou partie du dossier qui fait l'objet de la motion visée au paragraphe (2) contient des renseignements pouvant se rapporter à une instance introduite sous le régime de la présente partie et que la personne qui est en possession ou qui a le contrôle du dossier a refusé au directeur ou à la société la permission de l'examiner, il peut ordonner que cette personne produise le dossier, ou la partie précisée, de manière que le directeur, la société ou le tribunal puisse l'examiner et en faire des copies.

Ordonnance sur requête

(4) Si le tribunal est convaincu que tout ou partie du dossier qui fait l'objet de la requête visée au paragraphe (2) peut se rapporter à l'évaluation de la conformité à l'une ou l'autre des ordonnances suivantes et que la personne qui est en possession ou qui a le contrôle du dossier a refusé au directeur ou à la société la permission de l'examiner, il peut ordonner que cette personne produise le dossier, ou la partie précisée, de manière que le directeur, la société ou le tribunal puisse l'examiner ou en faire des copies :

1. Une ordonnance rendue en vertu de l'alinéa 94 (2) b) ou c) sous réserve d'une surveillance.
2. Une ordonnance rendue en vertu de l'alinéa 94 (2) c) ou d) à l'égard du droit de visite.
3. Une ordonnance de surveillance rendue en vertu de la disposition 1 ou 4 du paragraphe 101 (1).
4. Une ordonnance de visite rendue en vertu de l'article 104.
5. Une ordonnance de visite ou une ordonnance de surveillance rendue à la suite d'une requête présentée en vertu de l'article 113 ou 115.
6. Une ordonnance de garde rendue en vertu de l'article 116.
7. Une ordonnance de ne pas faire rendue en vertu de l'article 137.

Examen du dossier par le tribunal

(5) Quand il étudie la possibilité de rendre l'ordonnance visée au paragraphe (3) ou (4), le tribunal peut examiner le dossier.

Caractère confidentiel des renseignements

(6) Aucune personne ne doit divulguer les renseignements obtenus au moyen de l'ordonnance visée au paragraphe (3) ou (4), sauf :

- a) selon ce qui est précisé dans l'ordonnance;
- b) au cours d'un témoignage dans une instance introduite sous le régime de la présente partie.

Incompatibilité

(7) Le paragraphe (6) l'emporte sur toute disposition de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*.

Secret professionnel de l'avocat

(8) Sous réserve du paragraphe (9), le présent article s'applique malgré toute autre loi mais ne porte pas atteinte au secret professionnel qui lie l'avocat à son client.

Application de la *Loi sur la santé mentale*

(9) Si la motion ou la requête visée au paragraphe (2) concerne un dossier de renseignements personnels sur la santé, le paragraphe 35 (6) (déclaration du médecin traitant, audience) de la *Loi sur la santé mentale* s'applique et le tribunal accorde la même importance :

- a) aux questions à étudier en application du paragraphe 35 (7) de cette loi;
- b) au besoin de protéger l'enfant.

Application de l'article 294

(10) Si la motion ou la requête visée au paragraphe (2) concerne un dossier qui est un dossier relatif à un trouble mental au sens de l'article 294, cet article s'applique et le tribunal accorde la même importance :

- a) aux questions à étudier en application du paragraphe 294 (6);
- b) au besoin de protéger l'enfant.

Mandat autorisant l'accès au dossier

131 (1) Le tribunal ou un juge de paix peut décerner un mandat d'accès à un dossier, ou à une partie précisée d'un dossier, s'il est convaincu, sur la foi d'une dénonciation faite sous serment par le directeur ou la personne désignée par une société, qu'il existe des motifs raisonnables de croire que le dossier, ou la partie de dossier, est pertinent en ce qui concerne une enquête sur une allégation selon laquelle un enfant a ou peut avoir besoin de protection.

Pouvoirs conférés par le mandat

(2) Le mandat autorise le directeur ou la personne désignée par la société à faire ce qui suit :

- a) examiner le dossier qui y est précisé durant les heures normales de bureau ou durant les heures précisées dans le mandat;
- b) faire des copies du dossier par tout moyen qui ne l'abîme pas;
- c) prendre le dossier afin d'en faire des copies.

Remise du dossier

(3) La personne qui prend un dossier en vertu de l'alinéa (2) c) le rend promptement après l'avoir copié.

Admissibilité des copies

(4) La copie qu'une personne a tirée du dossier visé par le mandat décerné en vertu du présent article et qu'elle certifie être conforme à l'original est admissible en preuve au même titre que l'original et a la même valeur probante que lui.

Durée du mandat

(5) Le mandat est valide pendant sept jours.

Exécution

(6) Le directeur ou la personne désignée par la société peut faire appel à un agent de la paix pour qu'il l'aide dans l'exécution du mandat.

Communication privilégiée

(7) Le présent article s'applique malgré toute autre loi mais ne porte pas atteinte au secret professionnel qui lie l'avocat à son client.

Application de la *Loi sur la santé mentale*

(8) Si le mandat décerné en vertu du présent article concerne un dossier de renseignements personnels sur la santé et qu'il est contesté en vertu du paragraphe 35 (6) (déclaration du médecin traitant, audience) de la *Loi sur la santé mentale*, la même importance est accordée :

- a) aux questions énoncées au paragraphe 35 (7) de cette loi;
- b) au besoin de protéger l'enfant.

Application de l'article 294

(9) Si le mandat décerné en vertu du présent article concerne un dossier relatif à un trouble mental au sens de l'article 294 et qu'il est contesté en vertu de cet article, la même importance est accordée :

- a) aux questions énoncées au paragraphe 294 (6);
- b) au besoin de protéger l'enfant.

Télémandat

132 (1) Si le directeur ou la personne désignée par une société croit qu'il existe des motifs raisonnables de se faire décerner un mandat en vertu de l'article 131 et qu'il ne lui serait pas possible dans les circonstances de comparaître en personne devant le tribunal ou un juge de paix pour demander, conformément à l'article 131, qu'un mandat lui soit décerné, il peut faire la dénonciation sous serment par téléphone ou par un autre moyen de télécommunication au juge désigné à cette fin par le juge en chef de la Cour de justice de l'Ontario.

Idem

(2) La dénonciation :

- a) d'une part, comprend l'énoncé des motifs qui permettent de croire que le dossier ou la partie de dossier est pertinent en ce qui concerne une enquête sur une allégation selon laquelle un enfant a ou peut avoir besoin de protection;
- b) d'autre part, expose les circonstances qui font qu'il n'est pas possible pour le directeur ou la personne désignée par la société de comparaître en personne devant le tribunal ou un juge de paix.

Mandat décerné

(3) Le juge peut décerner un mandat autorisant l'accès au dossier ou à la partie précisée de celui-ci s'il est convaincu que la demande révèle :

- a) d'une part, qu'il existe des motifs raisonnables de croire que le dossier ou la partie de dossier est pertinent en ce qui concerne une enquête sur une allégation selon laquelle un enfant a ou peut avoir besoin de protection;
- b) d'autre part, qu'il existe des motifs raisonnables de passer outre à la comparution en personne aux fins de la présentation de la demande visée à l'article 131.

Validité du mandat

(4) Le mandat décerné en vertu du présent article ne peut faire l'objet d'une contestation pour la seule raison qu'il n'existait pas de motifs raisonnables de passer outre à la comparution en personne aux fins de la présentation de la demande visée à l'article 131.

Application de dispositions

(5) Les paragraphes (1) (2) à (9) s'appliquent, avec les adaptations nécessaires, au mandat décerné en vertu du présent article.

Définition

(6) La définition qui suit s'applique au présent article.

«juge» Un juge de paix, un juge de la Cour de justice de l'Ontario ou un juge de la Cour de la famille de la Cour supérieure de justice.

REGISTRE DES MAUVAIS TRAITEMENTS INFLIGÉS AUX ENFANTS**Registre**

133 (1) Les définitions qui suivent s'appliquent au présent article et à l'article 134.

«directeur» La personne nommée en vertu du paragraphe (2). («Director»)

«personne inscrite» Personne identifiée dans le registre, à l'exclusion :

- a) de celle qui fait un rapport à la société en application du paragraphe 125 (1) ou (2) et qui ne fait pas l'objet de ce rapport;
- b) de l'enfant qui fait l'objet d'un rapport. («registered person»)

«registre» Le registre tenu en application du paragraphe (5). («register»)

Directeur

(2) Pour l'application du présent article, le ministre peut nommer au poste de directeur un employé au ministère.

Obligation de la société

(3) La société qui reçoit, en application de l'article 125, un rapport selon lequel un enfant, y compris un enfant confié à ses soins, subit, peut subir ou peut avoir subi des mauvais traitements, vérifie dès que possible l'exactitude des renseignements qui lui ont été fournis ou veille à ce qu'une autre société les vérifie, de la manière prévue par le directeur. La société qui effectue la vérification en fait rapport au directeur sous la forme prescrite dès que possible.

Immunité

(4) Sont irrecevables les actions ou autres instances en dommages-intérêts introduites contre un dirigeant ou un employé de la société, qui agit de bonne foi, pour un acte accompli dans l'exercice effectif ou censé tel d'une obligation imposée à la société en application du paragraphe (3) ou pour une négligence ou un manquement qu'il aurait commis dans l'exercice de cette obligation.

Contenu du registre

(5) Le directeur tient un registre de la manière prescrite et y consigne les renseignements qui lui sont fournis en vertu du paragraphe (3). Le registre ne doit contenir aucun renseignement ayant pour effet d'identifier la personne qui a fourni les renseignements à une société en application du paragraphe 125 (1) ou (2) et qui ne fait pas l'objet du rapport.

Caractère confidentiel des renseignements

(6) Malgré la partie X (Renseignements personnels) et toute autre loi, nul ne doit examiner, retrancher, modifier ou divulguer des renseignements qu'il a obtenus du registre, ni permettre ces actes, sauf dans la mesure autorisée par le présent article.

Enquête du coroner

(7) Les personnes suivantes peuvent examiner, retrancher et divulguer des renseignements qui figurent au registre conformément aux pouvoirs dont elles sont investies :

1. Un coroner ou un médecin dûment qualifié, ou un agent de la paix muni d'une autorisation écrite d'un coroner, qui agit dans le cadre d'une enquête visée à la *Loi sur les coroners*.
2. L'avocat des enfants ou son mandataire autorisé.

Autorisation du ministre ou du directeur

(8) Le ministre ou le directeur peut permettre aux personnes suivantes d'examiner et de retrancher des renseignements qui figurent au registre et de les divulguer à une personne visée au paragraphe (7) ou à une autre personne visée au présent paragraphe, sous réserve des conditions que le directeur peut imposer :

1. Une personne employée :
 - i. au ministère,
 - ii. par une société,
 - iii. par un organisme chargé du bien-être des enfants situé hors de l'Ontario.
2. Une personne qui fournit ou propose de fournir du counseling ou un traitement à une personne inscrite.

Divulgarion par le ministre ou le directeur

(9) Le ministre ou le directeur peut divulguer des renseignements qui figurent au registre à une personne visée au paragraphe (7) ou (8).

Recherche

(10) La personne qui se livre à des travaux de recherche peut, avec l'approbation écrite du directeur, examiner les renseignements qui figurent au registre et les utiliser. Toutefois, elle ne doit pas :

- a) les utiliser ou les communiquer à d'autres fins que des fins de recherche, d'activités universitaires ou de compilation de données statistiques;
- b) communiquer des renseignements pouvant avoir pour effet d'identifier une personne dont le nom figure au registre.

Accès d'un enfant ou d'une personne inscrite

(11) L'enfant ou la personne inscrite, ou l'avocat ou le mandataire de l'enfant ou de la personne inscrite, ne peut examiner que les renseignements figurant au registre qui se rapportent à l'enfant ou à la personne inscrite.

Médecin

(12) Un médecin dûment qualifié peut, avec l'approbation écrite du directeur, examiner les renseignements figurant au registre que précise le directeur.

Modification apportée au registre

(13) Le directeur ou un employé au ministère qui agit sur les directives du directeur :

- a) doit retrancher un nom du registre ou apporter une autre modification au registre si les règlements exigent cette mesure;
- b) peut modifier le registre pour corriger une erreur.

Inadmissibilité du registre en preuve : exceptions

(14) Le registre n'est pas admissible en preuve dans une instance, sauf :

- a) pour prouver qu'il y a conformité ou non au présent article;
- b) lors d'une audience tenue ou d'un appel interjeté en vertu de l'article 134;
- c) dans une instance introduite sous le régime de la *Loi sur les coroners*;
- d) dans une instance visée à l'article 138.

Audience : personne inscrite**Définition**

134 (1) La définition qui suit s'applique au présent article.

«audience» S'entend d'une audience tenue en vertu de l'alinéa (4) b).

Avis à la personne inscrite

(2) Si une inscription est faite au registre, le directeur avise par écrit dès que possible chaque personne inscrite visée par l'inscription de ce qui suit :

- a) elle est identifiée dans le registre;
- b) elle-même ou son avocat ou son mandataire a le droit d'examiner les renseignements figurant au registre qui la concernent ou qui l'identifient;
- c) elle a le droit de demander au directeur de retirer son nom du registre ou d'y apporter une autre modification.

Demande de modification

(3) La personne inscrite qui reçoit l'avis prévu au paragraphe (2) peut demander au directeur de retirer son nom du registre ou d'y apporter une autre modification.

Réponse du directeur

(4) Sur réception de la demande prévue au paragraphe (3), le directeur peut :

- a) soit y donner suite;
- b) soit tenir une audience, après avoir donné un préavis écrit de 10 jours aux parties, pour décider s'il donne suite ou non à la demande.

Délégation de pouvoir

(5) Le directeur peut autoriser une autre personne à tenir l'audience et à exercer les pouvoirs et fonctions du directeur prévus au paragraphe (8).

Procédure

(6) La *Loi sur l'exercice des compétences légales* s'applique à l'audience. L'audience est tenue conformément aux règles de pratique et de procédure prescrites.

Audience

(7) Sont parties à l'audience :

- a) la personne inscrite;
- b) la société qui a vérifié les renseignements qui se rapportent à la personne inscrite ou qui l'identifient;
- c) toute autre personne que précise le directeur.

Décision du directeur

(8) Si, après avoir tenu l'audience, le directeur décide que les renseignements qui figurent au registre relativement à la personne inscrite ne devraient pas y figurer ou sont erronés, il retire le nom de la personne du registre ou apporte toute autre modification nécessaire. Il peut ordonner que les dossiers de la société soient modifiés de manière à tenir compte de cette décision.

Appel devant la Cour divisionnaire

(9) Une partie à l'audience peut interjeter appel de la décision du directeur devant la Cour divisionnaire.

Huis clos

(10) L'audience et l'appel prévus au présent article sont entendus à huis clos. Aucun représentant des médias n'a le droit d'y assister.

Publication

(11) Nul ne doit publier, ni rendre publics des renseignements ayant pour effet d'identifier un témoin, une personne qui prend part à l'audience ou une partie à l'audience autre que la société.

Inadmissibilité en preuve du procès-verbal : exception

(12) Le procès-verbal de l'audience ou de l'appel visé au présent article n'est pas admissible en preuve dans une autre instance, à l'exception d'une instance introduite en vertu de l'alinéa 142 (1) c) (caractère confidentiel du registre des mauvais traitements infligés aux enfants) ou de l'alinéa 142 (1) d) (modification des dossiers de la société).

POUVOIRS DU DIRECTEUR**Pouvoir de transférer l'enfant**

135 (1) Dans l'intérêt véritable de l'enfant confié aux soins ou à la surveillance d'une société, le directeur peut ordonner :

- a) soit qu'il soit confié aux soins ou à la surveillance d'une autre société;
- b) soit qu'il fasse l'objet d'un autre placement désigné par le directeur.

Facteurs

(2) Lorsqu'il décide s'il y a lieu ou non de placer l'enfant ailleurs en vertu de l'alinéa (1) b), le directeur tient compte des facteurs suivants :

- a) le laps de temps que l'enfant a passé dans le placement en cours;
- b) l'opinion des parents de famille d'accueil;
- c) l'opinion et les désirs de l'enfant, qui doivent être dûment pris en considération eu égard à son âge et à son degré de maturité.

INFRACTIONS, ORDONNANCES DE NE PAS FAIRE, RECOUVREMENT AU NOM DE L'ENFANT ET INJONCTIONS**Mauvais traitements : omission de prendre des mesures convenables****Définition**

136 (1) La définition qui suit s'applique au présent article.

«mauvais traitements» S'entend des maux physiques, des mauvais traitements d'ordre sexuel ou de l'exploitation sexuelle dont une personne est victime.

Mauvais traitements

(2) La personne responsable d'un enfant ne doit pas, selon le cas :

- a) lui infliger des mauvais traitements;
- b) du fait qu'elle ne subvient pas aux besoins de l'enfant ou qu'elle ne le surveille pas et ne le protège pas convenablement :
 - (i) soit permettre que l'enfant subisse des mauvais traitements,
 - (ii) soit permettre que l'enfant souffre d'un état mental ou affectif ou d'un trouble de développement qui risque, s'il n'y est pas remédié, de porter gravement atteinte à son développement.

Fait de laisser l'enfant sans soins

(3) La personne responsable d'un enfant de moins de 16 ans ne doit pas le laisser sans avoir pris des mesures raisonnables, dans les circonstances, pour assurer sa surveillance et la prestation de soins.

Enfant qui flâne dans un endroit public

(4) Le parent d'un enfant de moins de 16 ans ne doit pas lui permettre :

- a) soit de flâner dans un endroit public entre 0 h et 6 h;
- b) soit de se trouver dans un lieu de divertissement public entre 0 h et 6 h, à moins de l'accompagner ou d'autoriser une personne précise de 18 ans ou plus à l'accompagner.

Pouvoir d'un agent de la paix

(5) Si un enfant qui a réellement ou apparemment moins de 16 ans se trouve dans un lieu où le public a accès, entre 0 h et 6 h, sans être accompagné d'une personne décrite à l'alinéa (4) b), un agent de la paix peut l'amener dans un lieu sûr sans mandat et procéder comme si l'enfant avait été amené dans un lieu sûr en vertu du paragraphe 84 (1).

Audience relative à la protection de l'enfant

(6) Le tribunal peut, relativement à un cas visé au paragraphe (2), (3) ou (4), instruire l'affaire sous le régime de la présente partie comme si une requête avait été présentée en vertu du paragraphe 81 (1) (instance portant sur la protection de l'enfant) à l'égard de l'enfant.

Ordonnance de ne pas faire

137 (1) Au lieu de rendre une ordonnance en vertu du paragraphe 101 (1) ou de l'article 116 ou en plus de rendre l'une ou l'autre de ces deux ordonnances ou l'ordonnance provisoire visée au paragraphe 94 (2), le tribunal peut rendre une ou plusieurs des ordonnances suivantes dans l'intérêt véritable de l'enfant :

- 1. Une ordonnance pour empêcher une personne de visiter l'enfant ou d'avoir des contacts avec lui, ou pour le lui interdire, assortie des directives qu'il juge appropriées pour son application et la protection de l'enfant.
- 2. Une ordonnance pour empêcher une personne d'avoir des contacts avec la personne qui a la garde légitime de l'enfant à la suite d'une ordonnance provisoire rendue en vertu du paragraphe 94 (2) ou d'une ordonnance rendue en vertu du paragraphe 101 (1) ou de l'alinéa 116 (1) a) ou b), ou pour le lui interdire.

Avis

(2) Une ordonnance ne doit être rendue en vertu du paragraphe (1) que si un avis d'instance a été signifié à la personne à la partie dont le nom figure dans l'ordonnance.

Durée de l'ordonnance

(3) L'ordonnance rendue en vertu du paragraphe (1) demeure en vigueur pour la période que le tribunal estime être dans l'intérêt véritable de l'enfant et :

- a) si elle est rendue en plus d'une ordonnance provisoire rendue en vertu du paragraphe 94 (2) ou d'une ordonnance rendue en vertu du paragraphe 101 (1) ou de l'alinéa 116 (1) a), b) ou c), elle peut prévoir qu'elle demeure en vigueur, sauf si le tribunal la modifie, la proroge ou la révoque, tant que cette autre ordonnance demeure en vigueur;
- b) si elle est rendue au lieu d'une ordonnance rendue en vertu du paragraphe 101 (1) ou de l'alinéa 116 (1) a), b) ou c) ou en plus d'une ordonnance rendue en vertu de l'alinéa 116 (1) d), elle peut prévoir qu'elle demeure en vigueur jusqu'à ce que le tribunal la modifie ou la révoque.

Requête en prorogation, modification ou révocation de l'ordonnance

(4) Les personnes suivantes peuvent demander, par voie de requête, la prorogation, la modification ou la révocation d'une ordonnance rendue en vertu du paragraphe (1) :

- a) la personne qui en fait l'objet;

- b) l'enfant;
- c) la personne responsable de l'enfant;
- d) la société;
- e) le directeur;
- f) dans le cas d'un enfant inuit, métis ou de Premières Nations, la personne visée à l'alinéa a), b), c), d) ou e) ou le représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Ordonnance de prorogation, de modification ou de révocation

(5) Si une requête est présentée en vertu du paragraphe (4), le tribunal peut, dans l'intérêt véritable de l'enfant :

- a) soit proroger l'ordonnance pour la période qu'il estime être dans l'intérêt véritable de l'enfant, dans le cas de l'ordonnance visée à l'alinéa (3) a);
- b) soit modifier ou révoquer l'ordonnance.

Enfant confié aux soins d'une société : interdiction prévue

(6) Si l'enfant est confié aux soins d'une société et qu'une ordonnance rendue en vertu du paragraphe (1) interdisant à une personne de visiter l'enfant est en vigueur, la société ne doit pas confier de nouveau l'enfant aux soins :

- a) soit de la personne nommée dans l'ordonnance;
- b) soit d'une personne qui peut autoriser la personne nommée dans l'ordonnance à visiter l'enfant.

Réclamation juridique : recouvrement en raison de mauvais traitements

138 (1) La définition qui suit s'applique au présent article.

«subir des mauvais traitements» Relativement à un enfant, le fait d'avoir besoin de protection au sens de l'alinéa 74 (2) a), c), e), f), g) ou j).

Recouvrement de dommages-intérêts au nom de l'enfant

(2) Si l'avocat des enfants est d'avis, d'une part, qu'un enfant possède un droit d'action ou un autre droit en recouvrement de dommages-intérêts ou d'une autre indemnisation parce qu'il a subi des mauvais traitements et, d'autre part, qu'il serait dans l'intérêt véritable de l'enfant d'engager des poursuites, l'avocat des enfants peut engager et mener ces poursuites au nom de l'enfant.

Recouvrement par une société

(3) Si l'enfant est confié aux soins et à la garde d'une société, le paragraphe (2) s'applique également à la société avec les adaptations nécessaires.

Interdiction

139 Nul ne doit confier un enfant aux soins et à la garde d'une société et nulle société ne doit prendre soin d'un enfant ou en avoir la garde, si ce n'est conformément à la présente partie.

Infractions : ingérence dans la vie d'un enfant confié aux soins ou à la surveillance d'une société

140 Si un enfant fait l'objet d'une ordonnance de surveillance par la société ou d'une ordonnance ayant pour effet de le confier aux soins d'une société de façon provisoire ou prolongée rendue en vertu de la disposition 1, 2 ou 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) a) ou c), nul ne doit :

- a) inciter ou tenter d'inciter l'enfant à se soustraire aux soins de la personne auprès de qui il est placé par le tribunal ou la société, selon le cas;
- b) détenir ou héberger l'enfant après que la personne ou la société visée à l'alinéa a) demande qu'il lui soit rendu;
- c) s'ingérer dans la vie de l'enfant ou le soustraire ou tenter de le soustraire d'un endroit;
- d) rendre visite à la personne visée à l'alinéa a) ou communiquer avec elle dans le but de s'ingérer dans la vie de l'enfant.

Infractions : faux renseignements et entrave

141 Nul ne doit :

- a) donner sciemment de faux renseignements dans le cadre d'une requête visée à la présente partie;
- b) entraver ou tenter d'entraver les activités d'un préposé à la protection de l'enfance ou d'un agent de la paix qui agit en vertu de l'article 81, 83, 84, 85 ou 86, ni s'ingérer ou tenter de s'ingérer dans ses activités.

Autres infractions

142 (1) Quiconque contrevient à ce qui suit :

- a) une ordonnance de visite rendue en vertu du paragraphe 104 (1);
- b) le paragraphe 130 (6) (divulgence de renseignements);
- c) le paragraphe 133 (6) ou (10) (caractère confidentiel du registre des mauvais traitements infligés aux enfants);
- d) une ordonnance rendue en vertu du paragraphe 134 (8) (modification des dossiers de la société);
- e) le paragraphe 136 (3) ou (4) (fait de laisser un enfant sans soins, etc.);
- f) une ordonnance de ne pas faire rendue en vertu du paragraphe 137 (1);
- g) l'article 139 (placement non autorisé);
- h) un alinéa de l'article 140 (ingérence dans la vie de l'enfant, etc.);
- i) l'alinéa 141 a) ou b) (faux renseignements, entrave),

et l'administrateur, le dirigeant ou l'employé d'une personne morale qui autorise ou permet cette contravention ou y participe sont coupables d'une infraction et passibles, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ et d'un emprisonnement d'au plus un an, ou d'une seule de ces peines.

Infraction : mauvais traitements infligés à un enfant

(2) Quiconque contrevient au paragraphe 136 (2) (mauvais traitements infligés à un enfant) et l'administrateur, le dirigeant ou l'employé d'une personne morale qui autorise ou permet cette contravention ou y participe sont coupables d'une infraction et passibles, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ et d'un emprisonnement d'au plus deux ans, ou d'une seule de ces peines.

Infraction : publication

(3) Quiconque contrevient au paragraphe 87 (8) ou 134 (11) (publication de renseignements identificatoires) ou à une ordonnance de non-publication rendue en vertu de l'alinéa 87 (7) c) ou du paragraphe 87 (9) et l'administrateur, le dirigeant ou l'employé d'une personne morale qui autorise ou permet cette contravention ou y participe sont coupables d'une infraction et passibles, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ et d'un emprisonnement d'au plus trois ans, ou d'une seule de ces peines.

Injonction

143 (1) La Cour supérieure de justice peut, sur présentation d'une requête par la société, accorder une injonction pour empêcher quelqu'un de contrevenir à l'article 140.

Modification

(2) La Cour peut, sur présentation d'une requête par une personne, modifier ou révoquer l'ordonnance visée au paragraphe (1).

PARTIE VI JUSTICE POUR LES ADOLESCENTS

Définitions

144 Les définitions qui suivent s'appliquent à la présente partie.

«agent de probation» S'entend :

- a) soit de la personne que le lieutenant-gouverneur en conseil ou son délégué nomme ou désigne pour exercer les fonctions d'un délégué à la jeunesse au sens de la *Loi sur le système de justice pénale pour les adolescents* (Canada);
- b) soit de l'agent de probation nommé en vertu de l'alinéa 146 (1) b). («probation officer»)

«Commission» La Commission de révision des placements sous garde prorogée en application du paragraphe 151 (1). («Board»)

«huissier» Huissier nommé en vertu de l'alinéa 146 (1) c). («bailiff»)

PROGRAMMES ET AGENTS

Programmes**Programmes de détention provisoire en milieu ouvert et en milieu fermé**

145 (1) Le ministre peut mettre sur pied les programmes suivants dans des lieux de détention provisoire :

1. Des programmes de détention provisoire en milieu fermé dans le cadre desquels la liberté des adolescents est constamment restreinte au moyen de barrières matérielles, d'une surveillance étroite par le personnel ou d'un accès limité à la collectivité.
2. Des programmes de détention provisoire en milieu ouvert dans le cadre desquels sont imposées des restrictions moins sévères que celles applicables aux programmes de détention provisoire en milieu fermé.

Programmes de garde en milieu fermé

(2) Le ministre peut mettre sur pied des programmes de garde en milieu fermé dans des lieux de garde en milieu fermé.

Programmes de garde en milieu ouvert

(3) Le ministre peut mettre sur pied des programmes de garde en milieu ouvert dans des lieux de garde en milieu ouvert.

Lieux fermés à clé

(4) Les lieux de garde en milieu fermé et les lieux de détention provisoire en milieu fermé peuvent être fermés à clé afin de servir à la détention des adolescents.

Nominations par le ministre

146 (1) Le ministre peut nommer une personne ou une catégorie de personnes en qualité :

- a) de directeur provincial, pour exercer tout ou partie des fonctions d'un directeur provincial en application de :
 - (i) la *Loi sur le système de justice pénale pour les adolescents* (Canada),
 - (ii) la présente loi et des règlements;
- b) d'agent de probation, pour exercer tout ou partie des fonctions :
 - (i) d'un délégué à la jeunesse en application de la *Loi sur le système de justice pénale pour les adolescents* (Canada),
 - (ii) d'un agent de probation aux fins liées aux adolescents en application de la *Loi sur les infractions provinciales*,
 - (iii) d'un agent de probation en application de la présente loi et des règlements;
- c) d'huissier, pour exercer tout ou partie des fonctions d'un huissier en application des règlements.

Nominations : conditions ou restrictions

(2) Le ministre peut assortir la nomination prévue au paragraphe (1) de conditions ou de restrictions.

Agent de probation et huissier : pouvoirs d'un agent de la paix

(3) L'agent de probation nommé en vertu de l'alinéa (1) b) et l'huissier nommé en vertu de l'alinéa (1) c) possèdent, dans l'exercice de leurs fonctions, les pouvoirs d'un agent de la paix.

Désignation d'agents de la paix

(4) Le ministre peut désigner par écrit :

- a) soit une personne employée au ministère ou employée dans un lieu de garde en milieu ouvert ou en milieu fermé, ou dans un lieu de détention provisoire, pour agir en qualité d'agent de la paix dans l'exercice de ses fonctions;
- b) soit une catégorie de personnes, parmi celles visées à l'alinéa a), pour agir en qualité d'agents de la paix dans l'exercice de leurs fonctions.

Désignations : conditions ou restrictions

(5) Le ministre peut assortir la désignation prévue au paragraphe (4) de conditions ou de restrictions.

Rémunération et indemnités

(6) Le ministre fixe la rémunération et les indemnités de la personne nommée en vertu du paragraphe (1) qui n'est pas un fonctionnaire employé sous le régime de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario*. Ces sommes sont prélevées sur les affectations budgétaires de la Législature.

Rapports et renseignements

147 Le responsable d'un lieu de détention provisoire ou d'un lieu de garde en milieu ouvert ou en milieu fermé, l'huissier et l'agent de probation :

- a) présentent au ministre les rapports prescrits et lui fournissent les renseignements prescrits, sous la forme prescrite et aux intervalles prescrits;
- b) présentent un rapport au ministre et lui fournissent des renseignements, lorsque le ministre en fait la demande.

DÉTENTION PROVISOIRE

Détention provisoire en milieu ouvert ou en milieu fermé

Détention provisoire en milieu ouvert, sauf exception

148 (1) L'adolescent détenu en application de la *Loi sur le système de justice pénale pour les adolescents* (Canada) dans un lieu de détention provisoire est détenu dans un lieu de détention provisoire en milieu ouvert, sauf si le directeur provincial établit, en vertu du paragraphe (2), que l'adolescent doit être détenu dans un lieu de détention provisoire en milieu fermé.

Détention provisoire en milieu fermé

(2) Le directeur provincial peut détenir un adolescent dans un lieu de détention provisoire en milieu fermé s'il est convaincu que cette mesure est nécessaire pour l'un ou l'autre des motifs suivants :

1. L'adolescent est accusé d'une infraction qui rendrait un adulte passible d'un emprisonnement d'au moins cinq ans et, selon le cas :
 - i. l'infraction comprend le fait d'avoir infligé ou tenté d'infliger des lésions corporelles graves à une autre personne,
 - ii. il n'a pas comparu devant le tribunal lorsqu'il était tenu de le faire en application de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou il s'est évadé ou a tenté de s'évader lorsqu'il était détenu légalement,
 - iii. il a été reconnu coupable, au cours des 12 mois précédant l'infraction faisant l'objet de l'accusation visée, d'une infraction qui rendrait un adulte passible d'un emprisonnement d'au moins cinq ans.
2. L'adolescent est détenu dans un lieu de détention provisoire et le quitte ou tente de le quitter sans le consentement du responsable, ou est accusé soit de s'être évadé ou d'avoir tenté de s'évader lorsqu'il était détenu légalement, soit d'être illégalement en liberté en contravention au *Code criminel* (Canada).
3. Le directeur provincial est convaincu que, compte tenu de toutes les circonstances, y compris toute probabilité marquée que l'adolescent commettra une infraction criminelle ou entravera l'administration de la justice s'il est placé dans un lieu de détention provisoire en milieu ouvert, il est nécessaire de détenir l'adolescent dans un lieu de détention provisoire en milieu fermé pour assurer, selon le cas :
 - i. sa comparution devant le tribunal,
 - ii. la protection et la sécurité du public,
 - iii. la sécurité du lieu de détention provisoire.

Détention jusqu'au renvoi à un lieu de garde en milieu fermé

(3) Malgré le paragraphe (1), l'adolescent appréhendé parce qu'il a quitté un lieu de garde en milieu fermé ou qu'il n'y est pas retourné peut être détenu dans un lieu de détention provisoire en milieu fermé jusqu'à son renvoi au premier lieu de garde.

Détention jusqu'à la prise d'une décision

(4) Malgré le paragraphe (1), l'adolescent détenu en application de la *Loi sur le système de justice pénale pour les adolescents* (Canada) dans un lieu de détention provisoire peut être détenu dans un lieu de détention provisoire en milieu fermé durant au plus 24 heures pendant que le directeur provincial prend la décision prévue au paragraphe (2).

Révision du niveau de détention

(5) L'adolescent détenu dans un lieu de détention provisoire en milieu fermé et amené devant le tribunal pour adolescents pour révision d'une ordonnance de détention rendue en vertu de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou du *Code criminel* (Canada) peut demander au tribunal de réviser le niveau de sa détention.

Pouvoirs du tribunal pour adolescents

(6) Le tribunal pour adolescents qui effectue la révision d'une ordonnance de détention peut soit confirmer la décision que le directeur provincial a prise en vertu du paragraphe (2), soit ordonner que l'adolescent soit transféré dans un lieu de détention provisoire en milieu ouvert.

Retour de l'adolescent dans un lieu de détention provisoire en milieu fermé

(7) Le directeur provincial peut présenter au tribunal pour adolescents une requête en révision de l'ordonnance de transfert d'un adolescent dans un lieu de détention provisoire en milieu ouvert en vertu du paragraphe (6) si le retour de l'adolescent dans un lieu de détention provisoire en milieu fermé est nécessaire pour l'un ou l'autre des motifs suivants :

1. Un changement important de circonstances.
2. Un autre motif que le directeur provincial juge approprié.

Pouvoirs du tribunal pour adolescents

(8) Le tribunal pour adolescents qui effectue la révision d'une ordonnance de transfèrement d'un adolescent dans un lieu de détention provisoire en milieu ouvert peut soit confirmer la décision qu'il a prise en vertu du paragraphe (6), soit ordonner que l'adolescent soit transféré dans un lieu de détention provisoire en milieu fermé.

GARDE**Détention sous le régime de la *Loi sur les infractions provinciales*****Détention préalable au procès**

149 (1) Si une ordonnance de détention sous garde est rendue en vertu du paragraphe 150 (4) (ordonnance de détention) ou 151 (2) (autres ordonnances) de la *Loi sur les infractions provinciales*, l'adolescent est détenu dans un lieu de détention provisoire.

Garde en milieu ouvert pour les infractions provinciales

(2) Si un adolescent est condamné à une peine d'emprisonnement en application de la *Loi sur les infractions provinciales* :

- a) la peine d'emprisonnement est purgée dans un lieu de garde en milieu ouvert, sous réserve des paragraphes (3) et (4);
- b) l'article 91 (congé de réinsertion sociale) de la *Loi sur le système de justice pénale pour les adolescents* (Canada) s'applique avec les adaptations nécessaires;
- c) les articles 28 (réduction de peine) et 28.1 (décision concernant la réduction de peine) et la partie III (Commission ontarienne des libérations conditionnelles et des mises en liberté méritées) de la *Loi sur le ministère des Services correctionnels* s'appliquent avec les adaptations nécessaires.

Transfèrement dans un lieu de garde en milieu fermé

(3) Le directeur provincial peut transférer l'adolescent placé dans un lieu de garde en milieu ouvert en application de l'alinéa (2) a) dans un lieu de garde en milieu fermé s'il est d'avis que le transfèrement de l'adolescent est nécessaire pour assurer la sécurité de l'adolescent ou celle d'autres personnes se trouvant dans le lieu de garde en milieu ouvert.

Peines concomitantes

(4) Si l'adolescent placé sous garde en application de la *Loi sur le système de justice pénale pour les adolescents* (Canada) est condamné en même temps à une peine d'emprisonnement en application de la *Loi sur les infractions provinciales*, cette deuxième peine est purgée dans le même lieu que la première.

Adolescents en milieu ouvert

150 Si un adolescent est condamné en application de l'alinéa 75 d) de la *Loi sur les infractions provinciales* à une peine d'emprisonnement en milieu ouvert, tel que le précise l'article 103 de cette loi, parce qu'il n'a pas respecté les conditions de l'ordonnance de probation :

- a) il est gardé dans le lieu de garde en milieu ouvert que précise le directeur provincial;
- b) l'article 91 (congé de réinsertion sociale) de la *Loi sur le système de justice pénale pour les adolescents* (Canada) s'applique avec les adaptations nécessaires.

COMMISSION DE RÉVISION DES PLACEMENTS SOUS GARDE**Commission de révision des placements sous garde**

151 (1) La Commission de révision des placements sous garde est prorogée sous le nom de Commission de révision des placements sous garde en français et de Custody Review Board en anglais. Elle exerce les pouvoirs et fonctions que lui attribuent la présente partie et les règlements.

Membres

(2) La Commission se compose du nombre prescrit de membres nommés par le lieutenant-gouverneur en conseil.

Président et vice-présidents

(3) Le lieutenant-gouverneur en conseil peut nommer un membre de la Commission à la présidence et un ou plusieurs membres à la vice-présidence.

Quorum

(4) Le nombre prescrit de membres de la Commission constitue le quorum.

Rémunération

(5) Le président, les vice-présidents et les autres membres de la Commission touchent la rémunération que fixe le lieutenant-gouverneur en conseil. Ils ont le droit d'être remboursés des frais de déplacement et de subsistance raisonnables et nécessaires qu'ils engagent lorsqu'ils assistent aux réunions de la Commission ou participent d'une autre façon à ses travaux.

Fonctions de la Commission

(6) La Commission effectue les révisions demandées en application de l'article 152 et exerce les fonctions que lui attribuent les règlements.

Requête présentée à la Commission

152 (1) L'adolescent peut, par voie de requête, demander à la Commission de réviser :

- a) le lieu particulier où il est gardé ou a été transféré;
- b) le refus du directeur provincial d'autoriser le congé de réinsertion sociale prévu à l'article 91 de la *Loi sur le système de justice pénale pour les adolescents* (Canada);
- c) son transfèrement d'un lieu de garde en milieu ouvert à un lieu de garde en milieu fermé en application du paragraphe 24.2 (9) de la *Loi sur les jeunes contrevenants* (Canada) conformément à l'article 88 de la *Loi sur le système de justice pénale pour les adolescents* (Canada).

Délai de 30 jours

(2) La requête prévue au paragraphe (1) doit être présentée dans les 30 jours suivant la décision, le placement ou le transfèrement.

Obligation de la Commission : révision

(3) La Commission doit réviser la requête présentée en vertu du paragraphe (1) et peut tenir une audience à cet effet.

Tenue d'une audience

(4) Dans les 10 jours suivant la réception de la requête de l'adolescent, la Commission l'informe de son intention de tenir ou non une audience.

Procédure

(5) La *Loi sur l'exercice des compétences légales* ne s'applique pas à l'audience tenue en vertu du paragraphe (3).

Révision : délai prévu

(6) La Commission termine sa révision et rend une décision dans les 30 jours suivant la réception de la requête de l'adolescent, sauf si :

- a) d'une part, elle tient une audience relativement à la requête;
- b) d'autre part, l'adolescent et le directeur provincial dont la décision fait l'objet de la révision consentent à ce que la Commission dispose d'un délai plus long pour rendre sa décision.

Recommandations de la Commission

(7) Après avoir révisé une requête conformément au paragraphe (3), la Commission peut prendre l'une ou l'autre des mesures suivantes :

- a) recommander au directeur provincial que, selon le cas :
 - (i) l'adolescent soit transféré dans un autre lieu, si elle est d'avis que le lieu où l'adolescent est gardé ou celui où il a été transféré ne répond pas à ses besoins,
 - (ii) le congé de réinsertion sociale de l'adolescent soit autorisé en vertu de l'article 91 de la *Loi sur le système de justice pénale pour les adolescents* (Canada),
 - (iii) l'adolescent soit renvoyé à un lieu de garde en milieu ouvert, s'il a été transféré comme le prévoit l'alinéa (1) c);
- b) confirmer la décision, le placement ou le transfèrement.

APPRÉHENSION D'ADOLESCENTS QUI S'ABSENTENT D'UN LIEU DE GARDE SANS PERMISSION**Appréhension****Appréhension d'un adolescent qui s'absente d'un lieu de détention provisoire**

153 (1) L'agent de la paix ou le responsable d'un lieu de détention provisoire, ou le délégué du responsable, qui croit, en se fondant sur des motifs raisonnables et probables, qu'un adolescent détenu en application de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou de la *Loi sur les infractions provinciales* dans un lieu de détention provisoire a quitté ce lieu sans le consentement du responsable et n'y retourne pas ou refuse d'y retourner peut appréhender l'adolescent, même sans mandat, et l'amener dans un lieu de détention provisoire ou prendre des mesures à cet effet.

Appréhension d'un adolescent qui s'absente d'un lieu de garde en milieu ouvert

(2) L'agent de la paix ou le responsable d'un lieu de garde en milieu ouvert, ou le délégué du responsable, peut appréhender, même sans mandat, l'adolescent qui est gardé dans un lieu de garde en milieu ouvert comme le précise l'article 150 et

l'amener dans un lieu de garde en milieu ouvert ou un lieu de détention provisoire, ou prendre des mesures à cet effet, s'il croit, en se fondant sur des motifs raisonnables et probables, que l'adolescent :

- a) soit a quitté le lieu sans le consentement du responsable et n'y retourne pas ou refuse d'y retourner;
- b) soit ne retourne pas ou refuse de retourner au lieu de garde en milieu ouvert à la fin du congé de réinsertion sociale prévu à l'alinéa 150 b).

Renvoi de l'adolescent dans les 48 heures

(3) L'adolescent qui est appréhendé en vertu du présent article est renvoyé au lieu d'où il est absent dans les 48 heures de son appréhension, à moins que le directeur provincial ne le détienne dans un lieu de détention provisoire en milieu fermé en vertu de la disposition 2 du paragraphe 148 (2).

Mandat

(4) Un juge de paix peut délivrer un mandat autorisant un agent de la paix ou le responsable d'un lieu de détention provisoire ou d'un lieu de garde en milieu ouvert, ou le délégué du responsable, à appréhender un adolescent qui est gardé dans le lieu en question s'il est convaincu, à la suite d'une dénonciation faite sous serment, qu'il existe des motifs raisonnables et probables de croire que cet adolescent :

- a) soit a quitté ce lieu sans le consentement du responsable et n'y retourne pas ou refuse d'y retourner;
- b) soit ne retourne pas ou refuse de retourner à un lieu de garde en milieu ouvert à la fin du congé de réinsertion sociale prévu à l'alinéa 150 b).

Pouvoir d'entrer dans un local

(5) Si une personne autorisée à appréhender un adolescent en vertu du paragraphe (1) ou (2) croit, en se fondant sur des motifs raisonnables et probables, qu'un adolescent visé au paragraphe pertinent se trouve dans un local, elle peut, même sans mandat, entrer dans ce local, en employant la force si cela est nécessaire, y rechercher l'adolescent et l'en retirer.

Conformité aux règlements

(6) La personne autorisée à entrer dans un local en vertu du paragraphe (5) exerce ce pouvoir conformément aux règlements.

INSPECTIONS ET ENQUÊTES

Inspections et enquêtes

154 (1) Le ministre peut désigner une personne pour effectuer les inspections ou les enquêtes qu'il peut exiger dans le cadre de l'application de la présente partie.

Congédiement justifié pour entrave à une inspection

(2) La personne employée au ministère qui entrave une inspection ou une enquête ou qui soustrait, détruit ou dissimule des renseignements ou des choses exigés pour les fins d'une inspection ou d'une enquête, ou qui refuse de fournir ces renseignements ou choses, peut faire l'objet d'un congédiement justifié.

PERQUISITIONS OU FOUILLES

Perquisitions ou fouilles permises

155 (1) Le responsable d'un lieu de garde en milieu ouvert ou en milieu fermé ou d'un lieu de détention provisoire peut autoriser la perquisition ou la fouille, effectuée conformément aux règlements, de ce qui suit :

- 1. Le lieu de garde en milieu ouvert ou en milieu fermé ou le lieu de détention provisoire.
- 2. Un adolescent ou une autre personne se trouvant dans le lieu de garde en milieu ouvert ou en milieu fermé ou le lieu de détention provisoire.
- 3. Les biens d'un adolescent ou d'une autre personne se trouvant dans le lieu de garde en milieu ouvert ou en milieu fermé ou le lieu de détention provisoire.
- 4. Tout véhicule entrant ou se trouvant dans le lieu de garde en milieu ouvert ou en milieu fermé ou le lieu de détention provisoire.

Objets interdits

(2) Tout objet interdit trouvé lors d'une perquisition ou d'une fouille peut être saisi et il peut en être disposé conformément aux règlements.

Définition : objet interdit

(3) La définition qui suit s'applique au paragraphe (2).

«objet interdit» S'entend de ce qui suit :

- a) tout ce qu'un adolescent n'est pas autorisé à avoir en sa possession;
- b) tout ce qu'un adolescent est autorisé à avoir en sa possession, mais qui se trouve dans un endroit où l'adolescent n'est pas autorisé à l'avoir en sa possession;

- c) tout ce qu'un adolescent est autorisé à avoir en sa possession, mais dont il fait un usage non autorisé.

CONTENTIONS MÉCANIQUES

Contentions mécaniques

Restrictions

156 (1) Le responsable d'un lieu de garde en milieu fermé ou d'un lieu de détention provisoire en milieu fermé veille à ce qu'aucun adolescent détenu dans un tel lieu ne soit :

- a) maîtrisé au moyen de contentions mécaniques, si ce n'est conformément au présent article et aux règlements;
- b) maîtrisé au moyen de contentions mécaniques en guise de châtiment.

Conditions d'utilisation

(2) Le responsable d'un lieu de garde en milieu fermé ou d'un lieu de détention provisoire en milieu fermé ne peut autoriser l'utilisation de contentions mécaniques sur un adolescent détenu dans un tel lieu que si toutes les conditions suivantes sont réunies :

1. La non-utilisation de contentions mécaniques entraînerait un risque imminent que, selon le cas :
 - i. l'adolescent ou une autre personne subisse un préjudice corporel,
 - ii. l'adolescent s'évade du lieu de garde en milieu fermé ou du lieu de détention provisoire en milieu fermé,
 - iii. l'adolescent cause de graves dommages matériels.
2. L'utilisation d'autres moyens que les contentions mécaniques ne permettrait pas ou n'a pas permis de réduire ou d'éliminer le risque visé à la disposition 1.
3. L'utilisation de contentions mécaniques est raisonnablement nécessaire pour réduire ou éliminer le risque visé à la disposition 1.

Exception : transport

(3) Malgré le paragraphe (2), des contentions mécaniques peuvent être utilisées sur un adolescent détenu dans un lieu de garde en milieu fermé ou un lieu de détention provisoire en milieu fermé lorsque cela est raisonnablement nécessaire pour assurer le transfèrement de l'adolescent soit dans un autre lieu de garde ou lieu de détention, soit vers le tribunal ou la collectivité, ou en provenance du tribunal ou de la collectivité.

PARTIE VII MESURES EXTRAORDINAIRES

Définitions

157 Les définitions qui suivent s'appliquent à la présente partie.

«administrateur» Le responsable d'un programme de traitement en milieu fermé. («administrator»)

«pièce de descente sous clé» Pièce fermée à clé, agréée en vertu du paragraphe 173 (1) et utilisée pour la mise en oeuvre de mesures de descente face à des situations et à des comportements impliquant des enfants ou des adolescents. («secure de-escalation room»)

«programme de traitement en milieu fermé» Programme créé ou agréé par le ministre en vertu du paragraphe 158 (1). («secure treatment program»)

«psychotrope» Médicament ou combinaison de médicaments prescrits comme psychotropes. («psychotropic drug»)

«technique d'ingérence» S'entend des moyens suivants :

- a) l'utilisation de contentions mécaniques;
- b) une technique de stimulation aversive;
- c) toute autre technique prescrite comme technique d'ingérence. («intrusive procedure»)

«trouble mental» Trouble important des processus affectifs, de la pensée ou de la cognition qui affaiblit grandement la capacité d'une personne de formuler des jugements raisonnés. («mental disorder»)

PROGRAMMES DE TRAITEMENT EN MILIEU FERMÉ

Programmes de traitement en milieu fermé

Création ou agrément de programmes par le ministre

158 (1) Le ministre peut :

- a) soit mettre sur pied et faire fonctionner;
- b) soit agréer,

des programmes pour le traitement d'enfants ayant des troubles mentaux et dans le cadre desquels la liberté des enfants est constamment restreinte.

Conditions

(2) Le ministre peut assortir l'agrément prévu au paragraphe (1) de conditions. Il peut également modifier les conditions fixées ou en imposer de nouvelles.

Admission d'enfants

(3) Aucun enfant ne doit être admis à un programme de traitement en milieu fermé si ce n'est en application d'une ordonnance du tribunal rendue en vertu soit de l'article 164 (placement dans un programme de traitement en milieu fermé), soit de l'article 171 (admission d'urgence).

Locaux fermés à clé

159 Les locaux où est offert un programme de traitement en milieu fermé peuvent être fermés à clé afin d'y détenir des enfants.

Utilisation de contentions mécaniques

160 (1) Sous réserve du paragraphe (3), l'administrateur peut utiliser des contentions mécaniques sur un enfant, et en autoriser l'utilisation, pour contrôler le comportement de l'enfant.

Consentement non nécessaire

(2) L'administrateur n'est pas tenu d'obtenir le consentement de l'enfant, ou un consentement donné en son nom, avant d'utiliser des contentions mécaniques en vertu du présent article.

Restrictions

(3) L'administrateur veille à ce que les contentions mécaniques ne soient utilisées sur un enfant placé dans un programme de traitement en milieu fermé que si les conditions suivantes sont réunies :

- a) elles sont utilisées conformément à la présente partie, aux politiques établies en application du paragraphe (4) et aux règlements;
- b) elles sont utilisées en cas d'urgence au titre du devoir de common law qu'a le fournisseur de soins de maîtriser ou de confiner une personne lorsqu'il est nécessaire de prendre des mesures immédiates pour éviter que cette personne subisse ou cause à autrui des lésions corporelles graves.

Politique

(4) Le fournisseur de services agréé pour assurer la prestation d'un programme de traitement en milieu fermé doit :

- a) d'une part, établir une politique relative à l'utilisation de contentions mécaniques qui est conforme à la présente loi et aux règlements;
- b) d'autre part, veiller à ce que l'administrateur et les employés du programme se conforment à cette politique.

PLACEMENT DANS UN PROGRAMME DE TRAITEMENT EN MILIEU FERMÉ

Demande de placement d'un enfant

161 (1) L'une ou l'autre des personnes suivantes peut, avec le consentement écrit de l'administrateur, demander au tribunal, par voie de requête, d'ordonner le placement d'un enfant dans un programme de traitement en milieu fermé :

1. Si l'enfant a moins de 16 ans :
 - i. un parent de l'enfant,
 - ii. quiconque, à l'exception de l'administrateur, s'occupe de l'enfant, si un parent de l'enfant consent à la requête,
 - iii. la société qui a la garde de l'enfant en application d'une ordonnance rendue sous le régime de la partie V (Protection de l'enfance).
2. Si l'enfant a 16 ans ou plus :
 - i. l'enfant lui-même,
 - ii. un parent de l'enfant, si l'enfant consent à la requête,
 - iii. la société qui a la garde de l'enfant en application d'une ordonnance rendue sous le régime de la partie V (Protection de l'enfance), si l'enfant consent à la requête,
 - iv. un médecin.

Délai prévu pour entendre la requête

(2) Si une requête est présentée en vertu du paragraphe (1), le tribunal examine la question dans les 10 jours suivant la date à laquelle a été rendue l'ordonnance prévue au paragraphe (6) (représentation par un avocat) ou, si une telle ordonnance n'a pas été rendue, dans les 10 jours suivant la présentation de la requête.

Ajournement

(3) Le tribunal peut ajourner l'audition d'une requête pendant au plus 30 jours, sauf si le requérant et l'enfant consentent à un ajournement plus long.

Ordonnance provisoire

(4) Si l'audition d'une requête est ajournée, le tribunal peut rendre une ordonnance provisoire de placement de l'enfant dans un programme de traitement en milieu fermé s'il est convaincu que l'enfant remplit les critères de placement énoncés aux alinéas 164 (1) a) à f) et, si l'enfant a moins de 12 ans, que le ministre consent à l'admission de l'enfant.

Preuve en cas d'ajournement

(5) Pour l'application du paragraphe (4), le tribunal peut admettre une preuve qu'il estime crédible et digne de foi dans les circonstances et fonder sa décision sur cette preuve.

Enfant représenté par un avocat

(6) Si une requête est présentée en vertu du paragraphe (1) à l'égard d'un enfant qui n'a pas d'avocat, le tribunal ordonne, aussitôt que possible et, en tout état de cause, avant l'audition de la requête, que les services d'un avocat soient fournis à l'enfant.

Huis clos

(7) L'audience prévue au présent article est entendue à huis clos. Aucun représentant des médias n'a le droit d'y assister.

Présence de l'enfant à l'audience

(8) L'enfant qui fait l'objet de la requête prévue au paragraphe (1) a le droit d'être présent à l'audience, sauf dans l'un ou l'autre des cas suivants :

- a) le tribunal est convaincu que sa présence lui causerait des maux affectifs;
- b) l'enfant, après avoir obtenu des conseils juridiques, consent par écrit à la tenue de l'audience en son absence.

Présence de l'enfant exigée

(9) Le tribunal peut exiger que l'enfant qui a consenti à la tenue d'une audience en son absence en vertu de l'alinéa (8) b) assiste à tout ou partie de l'audience.

Témoignages oraux

162 (1) Si une requête est présentée en vertu du paragraphe 161 (1), le tribunal tient une audience sur la question et entend des témoignages oraux, à moins que l'enfant, après avoir obtenu des conseils juridiques, ne consente par écrit à ce qu'une ordonnance soit rendue en vertu du paragraphe 164 (1) sans l'audition de témoignages oraux. Le consentement de l'enfant est alors déposé auprès du tribunal.

Témoignages oraux malgré le consentement de l'enfant

(2) Le tribunal peut entendre des témoignages oraux même si l'enfant a donné le consentement prévu au paragraphe (1).

Validité du consentement de l'enfant

(3) Le consentement que donne l'enfant en application du paragraphe (1) n'est valable que pour la période visée au paragraphe 165 (1) (durée du placement).

Évaluation

163 (1) À tout moment après qu'une requête a été présentée en vertu du paragraphe 161 (1), le tribunal peut ordonner que l'enfant subisse, dans un délai déterminé, une évaluation devant une personne précisée qui, d'une part, possède, de l'avis du tribunal, les qualités requises pour procéder à une évaluation qui l'aidera à établir si l'enfant devrait être placé dans un programme de traitement en milieu fermé et, d'autre part, a accepté d'effectuer cette évaluation.

Rapport

(2) La personne qui effectue une évaluation en application du paragraphe (1) présente, par écrit, son rapport d'évaluation au tribunal dans le délai précisé dans l'ordonnance. Ce délai ne doit pas dépasser 30 jours, sauf si le tribunal est d'avis qu'une période d'évaluation plus longue est nécessaire.

Personnes ne pouvant effectuer une évaluation

(3) Le tribunal ne doit pas ordonner que l'évaluation soit effectuée par une personne qui fournit des services dans le cadre du programme de traitement en milieu fermé auquel se rapporte la requête.

Copies du rapport

(4) Le tribunal fournit une copie du rapport aux personnes suivantes :

- a) le requérant;
- b) l'enfant, sous réserve du paragraphe (6);
- c) l'avocat de l'enfant;
- d) le parent qui comparaît à l'audience;
- e) la société qui a la garde de l'enfant en application d'une ordonnance rendue sous le régime de la partie V (Protection de l'enfance);
- f) l'administrateur;
- g) dans le cas d'un enfant inuit, métis ou de Premières Nations, les personnes visées aux alinéas a), b), c), d), e) et f) et un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Idem

(5) Le tribunal peut faire en sorte qu'une copie du rapport soit donnée à un parent qui n'assiste pas à l'audience mais qui, selon le tribunal, s'intéresse activement aux délibérations.

Non-divulgaration du rapport à l'enfant

(6) Le tribunal peut s'abstenir de divulguer tout ou partie du rapport à l'enfant s'il est convaincu que la divulgation de tout ou partie du rapport à l'enfant lui causerait des maux affectifs.

Placement dans un programme de traitement en milieu fermé : critères

164 (1) Le tribunal ne peut ordonner qu'un enfant soit placé dans un programme de traitement en milieu fermé que s'il est convaincu que les critères suivants sont remplis :

- a) l'enfant a un trouble mental;
- b) l'enfant, par suite de ce trouble mental, s'est infligé ou a tenté de s'infliger des lésions corporelles graves ou en a infligées ou a tenté d'en infliger à une autre personne au cours des 45 jours qui ont précédé l'un ou l'autre des événements suivants :
 - (i) la présentation de la requête prévue au paragraphe 161 (1),
 - (ii) sa détention ou sa garde sous le régime de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou de la *Loi sur les infractions provinciales*,
 - (iii) son admission dans un établissement psychiatrique sous le régime de la *Loi sur la santé mentale* à titre de malade en cure obligatoire;
- c) l'enfant :
 - (i) soit au cours des 12 mois qui ont précédé la requête, mais lors d'une occasion différente de celle visée à l'alinéa b), s'est infligé ou a tenté de s'infliger des lésions corporelles graves, en a infligées ou a tenté d'en infliger à une autre personne, ou a sérieusement menacé, au moyen de paroles ou d'actes, de s'en infliger ou d'en infliger à une autre personne,
 - (ii) soit a causé ou a tenté de causer la mort d'une personne lorsqu'il a commis ou tenté de commettre l'acte visé à l'alinéa b);
- d) le programme de traitement en milieu fermé permettrait efficacement d'empêcher que l'enfant s'inflige ou tente de s'infliger des lésions corporelles graves ou en inflige ou tente d'en infliger à une autre personne;
- e) un traitement qui convient au trouble mental de l'enfant est disponible au lieu du traitement en milieu fermé auquel se rapporte la requête;
- f) aucune méthode moins restrictive qui convient au traitement du trouble mental de l'enfant n'est appropriée dans les circonstances.

Enfant de moins de 12 ans

(2) Le tribunal ne doit pas rendre l'ordonnance prévue au paragraphe (1) à l'égard d'un enfant de moins de 12 ans, sauf si le ministre consent au placement de l'enfant.

Exigence supplémentaire : médecin

(3) Si le requérant est un médecin, le tribunal ne doit rendre l'ordonnance prévue au paragraphe (1) que s'il est convaincu que le requérant croit que les critères énoncés dans ce paragraphe sont remplis.

Durée du placement

165 (1) Le tribunal précise, dans l'ordonnance rendue en vertu du paragraphe 164 (1), la durée du placement de l'enfant, qui ne peut dépasser 180 jours, dans le programme de traitement en milieu fermé.

Cas où la société est le requérant

(2) Si l'enfant est placé dans un programme de traitement en milieu fermé par suite d'une requête présentée par une société et que la durée du placement précisée dans l'ordonnance du tribunal dépasse 60 jours, l'enfant obtient son congé le jour qui suit le 60^e jour de son admission au programme, à moins qu'avant ce jour, selon le cas :

- a) un parent de l'enfant ne consente à un placement plus long;
- b) l'enfant ne fasse l'objet d'une ordonnance le confiant aux soins d'une société de façon provisoire et rendue en vertu de la disposition 2 du paragraphe 101 (1) ou d'une ordonnance le confiant aux soins d'une société de façon prolongée et rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c).

L'enfant ne doit en aucun cas être placé dans un programme de traitement en milieu fermé pendant une période plus longue que celle précisée en application du paragraphe (1).

Calcul des jours

(3) Les jours passés dans un programme de traitement en milieu fermé soit avant qu'une ordonnance soit rendue en vertu de l'article 164 (placement), soit en attendant qu'une requête soit présentée en vertu de l'article 167 (prorogation) entrent dans le calcul de la durée du placement de l'enfant.

Cas où la personne a 18 ans

(4) La personne qui fait l'objet d'une ordonnance rendue en vertu du paragraphe 164 (1) ou 167 (5) peut être gardée dans un programme de traitement en milieu fermé après avoir atteint l'âge de 18 ans, et ce jusqu'à l'expiration de l'ordonnance.

Motifs, programme de soins

166 (1) Le tribunal qui rend une ordonnance en vertu du paragraphe 164 (1) ou 167 (5) :

- a) motive sa décision;
- b) donne un énoncé du programme de soins, s'il y en a un, qui sera offert à l'enfant à son congé;
- c) donne un énoncé des solutions de rechange moins restrictives qu'il a étudiées et les raisons pour lesquelles il les a rejetées.

Programme de soins

(2) Si aucun programme de soins à fournir à l'enfant à son congé du programme de traitement en milieu fermé n'est disponible au moment où l'ordonnance est rendue, l'administrateur doit, dans les 90 jours de la date de l'ordonnance, élaborer un tel programme et le déposer auprès du tribunal.

PROROGATION DU PLACEMENT**Prorogation**

167 (1) Si un enfant fait l'objet d'une ordonnance rendue en vertu du paragraphe 164 (1) (placement) ou du paragraphe (5), l'une ou l'autre des personnes suivantes peut, avant l'expiration de la période de placement, demander, par voie de requête, que soit rendue une ordonnance de prorogation du placement de l'enfant dans le programme de traitement en milieu fermé :

- a) une personne visée au paragraphe 161 (1), avec le consentement écrit de l'administrateur;
- b) l'administrateur, avec le consentement écrit d'un parent ou, si l'enfant est confié à la garde légitime d'une société, le consentement de la société.

Idem

(2) Si une personne est gardée dans le programme de traitement en milieu fermé en vertu du paragraphe 165 (4) après avoir atteint l'âge de 18 ans, l'une ou l'autre des personnes suivantes peut, avant l'expiration de la période de placement, demander une seule fois, par voie de requête, que soit rendue une autre ordonnance de prorogation du placement de la personne en traitement dans le programme de traitement en milieu fermé :

- a) la personne en traitement, avec le consentement écrit de l'administrateur;
- b) un parent de la personne en traitement, avec le consentement écrit de cette personne et celui de l'administrateur;
- c) un médecin, avec le consentement écrit de l'administrateur et de la personne en traitement;
- d) l'administrateur, avec le consentement écrit de la personne en traitement.

Possibilité de garder la personne dans le programme en attendant la décision

(3) Si une requête est présentée en vertu du paragraphe (1) ou (2), la personne peut être gardée dans le programme de traitement en milieu fermé en attendant qu'une décision soit rendue au sujet de la requête.

Application des paragraphes 161 (3) et (6) à (9) et des articles 162 et 163

(4) Les paragraphes 161 (3), (6), (7), (8) et (9) (audience) et les articles 162 (renonciation aux témoignages oraux) et 163 (évaluation) s'appliquent, avec les adaptations nécessaires, à la requête présentée en vertu du paragraphe (1) ou (2).

Prorogation : critères

(5) Le tribunal ne peut, au moyen d'une ordonnance, proroger le placement d'un enfant dans un programme de traitement en milieu fermé que s'il est convaincu que les critères suivants sont remplis :

- a) l'enfant a un trouble mental;
- b) le programme de traitement en milieu fermé permettrait efficacement d'empêcher que l'enfant s'inflige ou tente de s'infliger des lésions corporelles graves ou en inflige ou tente d'en infliger à une autre personne;
- c) aucune méthode moins restrictive qui convient au traitement du trouble mental de l'enfant n'est appropriée dans les circonstances;
- d) l'enfant reçoit soit le traitement qui a été proposé lorsque l'ordonnance originale a été rendue en vertu du paragraphe 164 (1), soit un autre traitement approprié;
- e) un programme approprié de soins à fournir à l'enfant à son congé existe.

Durée de la prorogation

(6) Le tribunal précise, dans l'ordonnance rendue en vertu du paragraphe (5), la durée du placement de l'enfant, qui ne peut dépasser 180 jours, dans un programme de traitement en milieu fermé.

CONGÉ ACCORDÉ PAR L'ADMINISTRATEUR**Congé****Congé sans condition**

168 (1) L'administrateur peut accorder un congé sans condition à l'enfant placé dans un programme de traitement en milieu fermé si :

- a) d'une part, il a donné un préavis raisonnable de son intention à la personne qui a la garde légitime de l'enfant;
- b) d'autre part, il est convaincu des deux points suivants :
 - (i) l'enfant n'a plus besoin du traitement en milieu fermé,
 - (ii) un programme approprié de soins à fournir à l'enfant à son congé existe.

Congé avec conditions

(2) L'administrateur peut accorder à l'enfant placé dans un programme de traitement en milieu fermé un congé temporaire pour des raisons d'ordre médical, pour un événement de famille ou pour un placement à l'essai en milieu ouvert. Il fixe la durée et les conditions de ce congé.

Congé malgré une ordonnance

(3) Les paragraphes (1) et (2) s'appliquent malgré une ordonnance rendue en vertu du paragraphe 164 (1) (placement) ou 167 (5) (prorogation).

RÉVISION DU PLACEMENT**Révision du placement**

169 (1) L'une ou l'autre des personnes suivantes peut demander au tribunal, par voie de requête, de rendre une ordonnance révoquant une ordonnance rendue en vertu du paragraphe 164 (1) (placement) ou 167 (5) (prorogation) :

1. L'enfant, s'il a 12 ans ou plus.
2. Un parent de l'enfant.
3. La société qui prend soin de l'enfant, le garde ou le surveille.

Application des paragraphes 161 (3) et (6) à (9) et des articles 162 et 163

(2) Les paragraphes 161 (3), (6), (7), (8) et (9) (audience) et les articles 162 (renonciation aux témoignages oraux) et 163 (évaluation) s'appliquent, avec les adaptations nécessaires, à la requête présentée en vertu du paragraphe (1).

Révocation de l'ordonnance

(3) Le tribunal rend une ordonnance revoquant le placement de l'enfant, sauf s'il est convaincu que les critères suivants sont remplis :

- a) l'enfant a un trouble mental;
- b) le programme de traitement en milieu fermé continuerait de permettre efficacement d'empêcher que l'enfant s'inflige ou tente de s'infliger des lésions corporelles graves ou en inflige ou tente d'en infliger à une autre personne;
- c) aucune méthode moins restrictive qui convient au traitement du trouble mental de l'enfant n'est appropriée dans les circonstances;
- d) l'enfant reçoit soit le traitement qui a été proposé lorsque l'ordonnance la plus récente a été rendue en vertu du paragraphe 164 (1) ou 167 (5), soit un autre traitement approprié.

Idem

(4) Lorsqu'il rend une ordonnance en vertu du paragraphe (3), le tribunal examine s'il existe un programme approprié de soins à fournir à l'enfant à son congé.

Application des paragraphes 167 (3) à (6) et des articles 168 et 169

170 Les paragraphes 167 (3), (4), (5) et (6) et les articles 168 et 169 s'appliquent, avec les adaptations nécessaires, à une personne de 18 ans ou plus qui est placée dans un programme de traitement en milieu fermé comme si elle était un enfant.

ADMISSION D'URGENCE**Admission d'urgence**

171 (1) L'une ou l'autre des personnes suivantes peut demander à l'administrateur de placer d'urgence un enfant dans un programme de traitement en milieu fermé :

1. Si l'enfant a moins de 16 ans :
 - i. un parent de l'enfant,
 - ii. une personne qui s'occupe de l'enfant, avec le consentement d'un parent,
 - iii. un préposé à la protection de l'enfance qui a amené l'enfant dans un lieu sûr en vertu de l'article 81,
 - iv. la société qui a la garde de l'enfant en application d'une ordonnance rendue sous le régime de la partie V (Protection de l'enfance).
2. Si l'enfant a 16 ans ou plus :
 - i. l'enfant lui-même,
 - ii. un parent de l'enfant, si l'enfant consent à la demande,
 - iii. la société qui a la garde de l'enfant en application d'une ordonnance rendue sous le régime de la partie V (Protection de l'enfance), si l'enfant consent à la demande,
 - iv. un médecin.

Admission : critères

(2) En cas de demande visée au paragraphe (1), l'administrateur peut placer un enfant dans un programme de traitement en milieu fermé pendant au plus 30 jours s'il croit, en se fondant sur des motifs raisonnables, que les critères suivants sont remplis :

- a) l'enfant a un trouble mental;
- b) l'enfant, par suite de ce trouble mental, s'est infligé ou a tenté de s'infliger des lésions corporelles graves, en a infligées ou a tenté d'en infliger à une autre personne, ou a sérieusement menacé, au moyen de paroles ou d'actes, de s'en infliger ou d'en infliger à une autre personne;
- c) le programme de traitement en milieu fermé permettrait efficacement d'empêcher que l'enfant s'inflige ou tente de s'infliger des lésions corporelles graves ou en inflige ou tente d'en infliger à une autre personne;
- d) un traitement qui convient au trouble mental de l'enfant est disponible au lieu du traitement en milieu fermé auquel se rapporte la demande;
- e) aucune méthode moins restrictive qui convient au traitement du trouble mental de l'enfant n'est appropriée dans les circonstances.

Admission avec consentement

(3) L'administrateur peut admettre l'enfant en vertu du paragraphe (2) même si le critère énoncé à l'alinéa (2) b) n'est pas rempli si les conditions suivantes sont réunies :

- a) les autres critères énoncés au paragraphe (2) sont remplis;
- b) l'enfant, après avoir obtenu des conseils juridiques, consent à son admission;
- c) si l'enfant a moins de 16 ans, son parent ou, si l'enfant est confié à la garde légitime d'une société, la société, consent à son admission.

Enfant de moins de 12 ans

(4) Si l'enfant a moins de 12 ans, l'administrateur ne doit pas l'admettre en vertu du paragraphe (2), sauf si le ministre consent à l'admission de l'enfant.

Exigence supplémentaire : médecin

(5) Si l'auteur de la demande est un médecin, l'administrateur ne doit admettre l'enfant en vertu du paragraphe (2) que s'il est convaincu que l'auteur de la demande croit que les critères énoncés dans ce paragraphe sont remplis.

Avis exigés

(6) L'administrateur veille à ce que les mesures suivantes soient prises dans les 24 heures de l'admission d'un enfant à un programme de traitement en milieu fermé en vertu du paragraphe (2) :

- a) l'enfant reçoit un avis écrit l'informant du droit qui lui est accordé par le paragraphe (9) de demander la révision de son placement;
- b) l'intervenant provincial en faveur des enfants et des jeunes et l'avocat des enfants sont avisés de l'admission de l'enfant.

Explication obligatoire

(7) L'intervenant provincial en faveur des enfants et des jeunes veille à ce que, dès que possible après la réception de l'avis, une personne qui n'est pas employée pour fournir des services dans le cadre du programme de traitement en milieu fermé explique à l'enfant, dans un langage que celui-ci peut comprendre, qu'il a le droit de demander la révision de son placement.

Obligation de l'avocat des enfants

(8) L'avocat des enfants représente l'enfant dès que possible et, en tout état de cause, dans les cinq jours suivant la réception de l'avis prévu au paragraphe (6), à moins qu'il ne soit convaincu qu'une autre personne agira à titre d'avocat de l'enfant dans ce délai.

Requête en révision

(9) Si un enfant est admis à un programme de traitement en milieu fermé en vertu du présent article, quiconque, y compris l'enfant, peut, par voie de requête, demander à la Commission de rendre une ordonnance de mise en congé de l'enfant de ce programme.

Possibilité de garder l'enfant dans le programme en attendant la décision

(10) Si une requête est présentée en vertu du paragraphe (9), l'enfant peut être gardé dans le programme de traitement en milieu fermé en attendant qu'une décision soit rendue au sujet de la requête.

Procédure

(11) Les paragraphes 161 (7), (8) et (9) (audience) et l'article 162 (renonciation aux témoignages oraux) s'appliquent, avec les adaptations nécessaires, à la requête présentée en vertu du paragraphe (9).

Délai pour la révision

(12) Si une requête est présentée en vertu du paragraphe (9), la Commission rend sa décision dans les cinq jours suivant la présentation de la requête.

Ordonnance

(13) La Commission doit rendre une ordonnance de mise en congé de l'enfant du programme de traitement en milieu fermé, sauf si elle est convaincue que l'enfant remplit les critères d'admission d'urgence énoncés aux alinéas (2) a) à e).

AIDE DE LA POLICE**Pouvoirs des agents de la paix, durée du placement****Enfant amené par la police**

172 (1) Un agent de la paix peut amener un enfant dans un lieu où existe un programme de traitement en milieu fermé :

- a) soit pour le faire admettre d'urgence, à la demande d'une personne visée au paragraphe 171 (1);

- b) soit parce qu'une ordonnance de placement de l'enfant dans un programme de traitement en milieu fermé a été rendue en vertu de l'article 164.

Appréhension d'un enfant qui est sorti

(2) Si un enfant admis à un programme de traitement en milieu fermé quitte l'établissement où est offert le programme sans le consentement de l'administrateur, un agent de la paix peut l'appréhender, même sans mandat, et le renvoyer à l'établissement.

Durée du placement

(3) Si un enfant est renvoyé à un établissement en vertu du paragraphe (2), son absence de l'établissement n'entre pas dans le calcul de la durée du placement.

DÉESCALADE SOUS CLÉ

Agrément du directeur

173 (1) Le directeur peut, aux conditions qu'il précise, agréer, pour la mise en oeuvre de mesures de désescalade face à des situations et à des comportements impliquant des enfants ou des adolescents, une pièce fermée à clé qui est conforme aux normes prescrites et qui se trouve dans les locaux où un service est fourni.

Retrait de l'agrément

(2) S'il est d'avis qu'une pièce de désescalade sous clé est inutile ou est utilisée d'une manière qui contrevient à la présente partie ou aux règlements, le directeur peut retirer l'agrément qu'il a donné en vertu du paragraphe (1). Il doit alors donner au fournisseur de services concerné un avis motivé de sa décision.

Désescalade interdite

174 (1) Aucun fournisseur de services ou parent de famille d'accueil ne doit placer un enfant ou un adolescent confié à ses soins dans une pièce fermée à clé, ni permettre qu'il y soit placé, si ce n'est conformément au présent article et aux règlements.

Fermeture à clé habituelle de certains locaux

(2) Le paragraphe (1) n'interdit pas la fermeture à clé habituelle, la nuit, de pièces qui se trouvent dans les locaux où sont offerts des programmes de traitement en milieu fermé ou dans des lieux de garde en milieu fermé et des lieux de détention provisoire en milieu fermé en vertu de la partie VI (Justice pour les adolescents).

Désescalade : critères

(3) Un enfant ou un adolescent peut être placé dans une pièce de désescalade sous clé si les critères suivants sont remplis :

a) le fournisseur de services est d'avis que :

- (i) d'une part, la conduite de l'enfant ou de l'adolescent indique qu'il risque vraisemblablement, dans l'avenir immédiat, d'endommager sérieusement des biens ou d'infliger à une autre personne des lésions corporelles graves,
- (ii) d'autre part, aucune autre méthode de contrainte moins restrictive n'est possible;

b) si l'enfant a moins de 12 ans, le directeur permet qu'il soit placé dans une telle pièce en raison de circonstances exceptionnelles.

Limite d'une heure

(4) L'enfant ou l'adolescent placé dans une pièce de désescalade sous clé doit être libéré dans l'heure, sauf si le responsable des locaux approuve par écrit son maintien dans cette pièce et consigne les raisons justifiant le non-recours à une méthode de contrainte moins restrictive.

Surveillance constante

(5) Sous réserve du paragraphe (9), le fournisseur de services veille à ce que l'enfant ou l'adolescent placé dans une pièce de désescalade sous clé soit constamment surveillé par une personne responsable.

Examen

(6) Si l'enfant ou l'adolescent est placé dans une pièce de désescalade sous clé pendant plus d'une heure, le responsable des locaux examine le placement aux intervalles prescrits.

Libération de l'enfant ou de l'adolescent

(7) L'enfant ou l'adolescent placé dans une pièce de désescalade sous clé est libéré aussitôt que le responsable est convaincu qu'il ne risque plus vraisemblablement, dans l'avenir immédiat, d'endommager sérieusement des biens ou d'infliger à une personne des lésions corporelles graves.

Périodes maximales

(8) Sous réserve du paragraphe (9), aucun enfant ou adolescent ne doit être gardé dans une pièce de désescalade sous clé pendant une ou des périodes dépassant en tout soit huit heures au cours d'une période donnée de 24 heures, soit 24 heures au cours d'une semaine donnée.

Exception

(9) Le fournisseur de services n'est pas tenu de se conformer aux paragraphes (5) et (8) dans le cas d'adolescents de 16 ans ou plus gardés dans un lieu de garde en milieu fermé ou de détention provisoire en milieu fermé. Il doit toutefois se conformer aux normes et protocoles suivants ainsi qu'aux normes et protocoles supplémentaires prescrits, le cas échéant :

1. L'adolescent doit être surveillé toutes les 15 minutes par une personne responsable et les résultats de cette surveillance doivent être consignés au dossier de l'adolescent.
2. Le fournisseur de services doit décider, compte tenu des besoins de l'adolescent, si ce dernier devrait être surveillé à intervalles réguliers plus fréquents que toutes les 15 minutes et, si cette décision est prise, l'adolescent doit être surveillé par une personne responsable aux intervalles plus fréquents qu'a décidés le fournisseur de service et les résultats de cette surveillance doivent être consignés au dossier de l'adolescent.
3. L'adolescent ne doit pas être gardé dans une pièce de désescalade sous clé pendant une période continue de plus de 24 heures ou pendant une ou des périodes totalisant plus de 24 heures par période de sept jours.
4. Malgré la disposition 3, le fournisseur de services peut prolonger, avec l'approbation du directeur provincial, pour une période continue de plus de 24 heures ou pour des périodes totalisant plus de 24 heures dans une période donnée de sept jours, le placement de l'adolescent dans une pièce de désescalade sous clé.
5. Le directeur provincial peut approuver la prolongation du placement de l'adolescent dans une pièce de désescalade sous clé pour une période de plus de 24 heures continues ou pour des périodes totalisant plus de 24 heures dans une période donnée de sept jours s'il a des motifs raisonnables et probables de croire que le placement de l'adolescent dans une telle pièce est nécessaire pour assurer la sécurité des membres du personnel ou des adolescents se trouvant dans l'établissement.

Examen de la nécessité d'une pièce de désescalade sous clé

175 Tous les trois mois ou, dans le cas d'une garde en milieu fermé ou d'une détention provisoire en milieu fermé, tous les six mois à partir de la date à laquelle la pièce de désescalade sous clé est agréée en vertu du paragraphe 173 (1), le responsable des locaux où se trouve cette pièce examine :

- a) la nécessité de cette pièce;
- b) les questions prescrites.

Il fournit au directeur un rapport d'examen écrit, ainsi que les rapports supplémentaires prescrits.

PSYCHOTROPES**Utilisation de psychotropes : consentement exigé**

176 Le fournisseur de services ne doit ni administrer un psychotrope à un enfant ou à un adolescent confié à ses soins, ni permettre que lui soit administré un tel médicament, sans le consentement prévu conformément à la *Loi de 1996 sur le consentement aux soins de santé*.

COMMISSION PROFESSIONNELLE CONSULTATIVE**Constitution de la Commission**

177 (1) Le ministre peut constituer la Commission professionnelle consultative. La Commission se compose de médecins et d'autres professionnels qui ont les qualités requises suivantes :

- a) ils possèdent des connaissances particulières en ce qui concerne l'utilisation de techniques d'ingérence et de psychotropes;
- b) ils sont bien renseignés et ont manifesté un intérêt pour le bien-être des enfants;
- c) ils ne sont pas employés au ministère.

Président

(2) Le ministre nomme un des membres de la Commission professionnelle consultative à la présidence.

Fonctions de la Commission

(3) À la demande du ministre, la Commission professionnelle consultative exerce les fonctions suivantes et fait des recommandations au ministre :

- a) elle conseille le ministre sur la prescription de techniques comme techniques d'ingérence;

- b) elle enquête sur l'utilisation de techniques d'ingérence et de psychotropes, examine cette question et fait des recommandations au ministre;
- c) elle examine les pratiques et protocoles des fournisseurs de services en ce qui concerne :
 - (i) la désescalade sous clé,
 - (ii) les techniques d'ingérence,
 - (iii) les psychotropes.

Demande d'examen

178 Une personne peut demander que le ministre charge la Commission professionnelle consultative d'enquêter soit sur l'utilisation d'une pièce de désescalade sous clé ou d'une technique d'ingérence à l'égard d'un enfant ou d'un adolescent, soit sur l'administration d'un psychotrope à un enfant ou à un adolescent, et d'examiner cette question.

PARTIE VIII

ADOPTION ET DÉLIVRANCE DE PERMIS RELATIFS À L'ADOPTION

INTERPRÉTATION

Interprétation

179 (1) Les définitions qui suivent s'appliquent à la présente partie.

«accord de communication» Accord visé à l'article 212. («openness agreement»)

«conjoint» S'entend au sens des parties I et II du *Code des droits de la personne*. («spouse»)

«frère ou soeur de naissance» Relativement à une personne, s'entend d'un enfant qui a le même parent de naissance que cette personne. S'entend en outre de l'enfant adopté par le parent de naissance et d'une personne que le parent de naissance a l'intention bien arrêtée et manifeste de traiter comme un enfant de sa famille. («birth sibling»)

«membre de la parenté de naissance» S'entend :

- a) relativement à un enfant qui n'a pas été adopté, d'un membre de la parenté de l'enfant;
- b) relativement à un enfant qui a été adopté, d'une personne qui aurait été un membre de la parenté de l'enfant s'il n'avait pas été adopté. («birth relative»)

«ordonnance de communication» Ordonnance rendue par un tribunal conformément à la présente loi en vue de faciliter la communication ou de maintenir une relation entre l'enfant et, selon le cas :

- a) un parent de naissance, un frère ou une soeur de naissance, ou un membre de sa parenté de naissance;
- b) une personne avec qui il entretient une relation importante ou des liens affectifs importants, notamment un parent de famille d'accueil ou un membre de sa famille élargie ou de sa communauté;
- c) dans le cas d'un enfant inuit, métis ou de Premières Nations :
 - (i) une personne visée à l'alinéa a) ou b),
 - (ii) un membre des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient et qui peut ne pas avoir entretenu une relation importante ou des liens affectifs importants avec l'enfant dans le passé, mais qui l'aidera à nouer ou à maintenir des liens avec la culture, le patrimoine et les traditions des communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient et à préserver son identité culturelle et les liens qui l'unissent à la communauté. («openness order»)

«parent de naissance» Personne qui satisfait aux critères prescrits. («birth parent»)

Intérêt véritable de l'enfant

(2) La personne tenue, en application de la présente partie, de rendre une ordonnance ou de prendre une décision dans l'intérêt véritable d'un enfant étudie ce qui suit :

- a) l'opinion et les desirs de l'enfant, qui doivent être dûment pris en considération eu égard à son âge et à son degré de maturité, sauf s'ils ne peuvent être établis;
- b) dans le cas d'un enfant inuit, métis ou de Premières Nations, l'importance de préserver l'identité culturelle de l'enfant et les liens qui l'unissent à la communauté en reconnaissance du caractère unique que revêtent la culture, le patrimoine et les traditions propres aux Premières Nations, aux Inuits et aux Métis, et les éléments prévus aux alinéas a) et c);
- c) tout autre facteur que la personne juge pertinent, notamment :
 - (i) les besoins physiques, mentaux et affectifs de l'enfant, et les soins ou le traitement qui conviennent pour répondre à ces besoins,

- (ii) le niveau de développement physique, mental et affectif de l'enfant,
- (iii) la race de l'enfant, son ascendance, son lieu d'origine, sa couleur, son origine ethnique, sa citoyenneté, la diversité de sa famille, son handicap, sa croyance, son sexe, son orientation sexuelle, son identité sexuelle et l'expression de son identité sexuelle,
- (iv) le patrimoine culturel et linguistique de l'enfant,
- (v) l'importance, en ce qui concerne le développement de l'enfant, d'une relation positive avec un parent et d'une place sûre en tant que membre d'une famille,
- (vi) les relations et les liens affectifs de l'enfant avec un parent, un frère ou une soeur, un membre de sa parenté, un membre de sa famille élargie ou un membre de sa communauté,
- (vii) l'importance de la continuité en ce qui concerne les soins à fournir à l'enfant et les conséquences que peut avoir sur lui toute interruption de cette continuité,
- (viii) les conséquences sur l'enfant de tout retard relativement à la solution de son cas.

CONSENTEMENT À L'ADOPTION

Consentements

180 (1) La définition qui suit s'applique au présent article.

«parent» En ce qui concerne un enfant, s'entend de chacune des personnes suivantes, à l'exclusion toutefois d'un titulaire de permis ou d'un parent de famille d'accueil :

1. Un parent de l'enfant aux termes de l'article 6, 8, 9, 10, 11 ou 13 de la *Loi portant réforme du droit de l'enfance*.
2. Dans le cas d'un enfant conçu par relation sexuelle, tout particulier visé à l'une des dispositions 1 à 5 du paragraphe 7 (2) de la *Loi portant réforme du droit de l'enfance*, à moins qu'il ne soit prouvé par la prépondérance des probabilités que le sperme utilisé pour concevoir l'enfant ne provenait pas du particulier.
3. Le particulier dont le statut en tant que parent de l'enfant a été établi ou reconnu par un tribunal compétent hors de l'Ontario.
4. Dans le cas d'un enfant adopté, un parent de l'enfant comme le prévoit l'article 217 ou 218 de la présente loi.
5. Le particulier qui a la garde légitime de l'enfant.
6. Le particulier qui, au cours des 12 mois qui ont précédé le placement de l'enfant en vue de son adoption sous le régime de la présente partie, a manifesté l'intention bien arrêtée de traiter l'enfant comme s'il s'agissait d'un enfant de sa famille ou a reconnu le lien de filiation qui l'unit à l'enfant et a subvenu à ses besoins.
7. Le particulier qui, aux termes d'une entente écrite ou d'une ordonnance d'un tribunal, est tenu de subvenir aux besoins de l'enfant, s'en est vu accorder la garde ou possède un droit de visite.
8. Le particulier qui a reconnu le lien de filiation qui l'unit à l'enfant en déposant une déclaration solennelle en vertu de l'article 12 de la *Loi portant réforme du droit de l'enfance*, dans sa version antérieure au jour de l'entrée en vigueur du paragraphe 1 (1) de la *Loi de 2016 sur l'égalité de toutes les familles (modifiant des lois en ce qui concerne la filiation et les enregistrements connexes)*.

Consentement d'un parent

(2) L'ordonnance portant sur l'adoption d'un enfant de moins de 16 ans, ou de 16 ans ou plus mais qui ne s'est pas soustrait à l'autorité parentale, ne doit pas être rendue sans :

- a) soit le consentement écrit de chaque parent;
- b) soit le consentement écrit du directeur, si l'enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c).

Idem

(3) Le consentement prévu à l'alinéa (2) a) ne doit pas être donné tant que l'enfant n'a pas sept jours.

Idem

(4) Si une société ou un titulaire de permis place un enfant en vue de son adoption, le consentement prévu à l'alinéa (2) a) ne doit pas être donné tant que :

- a) la société ou le titulaire de permis n'a pas avisé le parent de ses droits suivants :
 - (i) celui de retirer son consentement en vertu du paragraphe (8),
 - (ii) celui d'être informé, à sa demande, si une ordonnance d'adoption a été rendue à l'égard de l'enfant;

- b) la société ou le titulaire de permis n'a pas avisé le parent des autres questions prescrites;
- c) la société ou le titulaire de permis n'a pas donné l'occasion au parent de demander des services de counseling et des conseils juridiques auprès de personnes indépendantes en ce qui concerne le consentement.

Garde de l'enfant

(5) Les droits et responsabilités des parents de l'enfant relativement à la garde de l'enfant, aux soins à lui donner et à la surveillance dont il doit faire l'objet passent à la société ou au titulaire de permis jusqu'à ce que le consentement soit retiré en application du paragraphe 182 (1) (retrait tardif avec autorisation du tribunal) ou jusqu'à ce qu'une ordonnance d'adoption soit rendue en vertu de l'article 199 si les conditions suivantes sont réunies :

- a) la société ou le titulaire de permis place l'enfant en vue de son adoption;
- b) chaque consentement exigé en application du paragraphe (2) a été donné et n'a pas été retiré en vertu du paragraphe (8);
- c) la période de 21 jours visée au paragraphe (8) a expiré.'

Consentement de l'adopté

(6) L'ordonnance portant sur l'adoption d'une personne de sept ans ou plus ne doit pas être rendue sans le consentement écrit de cette personne.

Idem

(7) Le consentement prévu au paragraphe (6) ne doit être donné que lorsque la personne a eu l'occasion d'obtenir des services de counseling et des conseils juridiques auprès de personnes indépendantes en ce qui concerne le consentement.

Retrait du consentement

(8) La personne qui donne le consentement prévu au paragraphe (2) ou (6) peut le retirer par écrit dans les 21 jours. Si elle avait la garde de l'enfant immédiatement avant de donner son consentement, l'enfant doit lui être rendu dès le retrait du consentement.

Permission de passer outre à l'obtention du consentement

(9) Le tribunal peut permettre de passer outre à l'obligation d'obtenir le consentement de la personne prévu au paragraphe (6) s'il est convaincu :

- a) soit que le fait d'obtenir ce consentement causerait à la personne des maux affectifs;
- b) soit que la personne n'est pas en mesure de donner son consentement en raison d'une déficience intellectuelle.

Consentement du conjoint

(10) Lorsqu'une personne a un conjoint, aucune ordonnance d'adoption ne doit être rendue suite à la requête de cette personne sans le consentement écrit de son conjoint.

Consentement d'un mineur : rôle de l'avocat des enfants

(11) Si la personne qui donne le consentement prévu à l'alinéa (2) a) a moins de 18 ans, le consentement n'est valide que si l'avocat des enfants est convaincu qu'il a été donné en pleine connaissance de cause et qu'il reflète les vrais désirs de la personne.

Affidavit du témoin à la signature

(12) L'affidavit du témoin à la signature, rédigé sous la forme prescrite, est annexé au consentement et au retrait de consentement prévu au présent article.

Forme du consentement donné hors de l'Ontario

(13) N'est pas nul d'office le consentement exigé en application du présent article qui est donné hors de l'Ontario et dont la forme n'est pas conforme aux exigences du paragraphe (12) et des règlements si sa forme est conforme aux lois de l'autorité législative dans laquelle il est donné.

Permission de passer outre à l'obtention du consentement

181 Le tribunal peut permettre de passer outre à l'obligation d'obtenir le consentement prévu à l'article 180 en vue de l'adoption d'un enfant, à l'exclusion du consentement de l'enfant ou du directeur, s'il est convaincu :

- a) d'une part, que cette mesure est dans l'intérêt véritable de l'enfant;
- b) d'autre part, que la personne dont le consentement est exigé a reçu un avis de l'adoption projetée et de la requête visant à passer outre à l'obtention de son consentement ou que des efforts suffisants ont été faits pour lui remettre cet avis.

Retrait tardif du consentement

182 (1) Le tribunal peut autoriser l'auteur du consentement à l'adoption d'un enfant prévu à l'article 180 à retirer son consentement après le délai de 21 jours prévu au paragraphe 180 (8) s'il est convaincu que cette mesure est dans l'intérêt véritable de l'enfant. Si l'auteur du consentement avait la garde de l'enfant immédiatement avant de donner son consentement, l'enfant doit lui être rendu dès le retrait du consentement.

Exception : enfant placé en vue de son adoption

(2) Le paragraphe (1) ne s'applique pas si l'enfant a été placé auprès d'une personne en vue de son adoption et demeure confié aux soins de cette personne.

PLACEMENT EN VUE D'UNE ADOPTION**Placement d'enfants : pouvoir exclusif des sociétés et des titulaires de permis**

183 (1) Nul ne doit, à l'exception d'une société ou d'un titulaire de permis :

- a) placer un enfant auprès d'une personne en vue de son adoption;
- b) amener ou envoyer hors de l'Ontario, ou tenter de le faire, un enfant qui réside en Ontario pour le placer en vue de son adoption.

Enfants amenés en Ontario : pouvoir exclusif des sociétés et de certains titulaires de permis

(2) À l'exception d'une société ou du titulaire d'un permis contenant une clause l'autorisant à agir dans le cadre du présent paragraphe, nul ne doit amener en Ontario un enfant qui n'est pas résident de la province pour le placer en vue de son adoption.

Approbation du placement projeté par le directeur

(3) Aucun titulaire de permis, à l'exception de celui qui bénéficie de l'exemption prévue au paragraphe (6), ne doit prendre l'une ou l'autre des mesures suivantes sans avoir au préalable obtenu l'approbation du directeur prévue à l'article 188 en ce qui concerne le placement projeté :

1. Placer un enfant qui réside au Canada auprès d'une personne en vue de son adoption.
2. Amener ou envoyer hors de l'Ontario, ou tenter de le faire, un enfant qui réside en Ontario pour le placer en vue de son adoption.

Placement d'un enfant résidant hors du Canada

(4) Aucun titulaire de permis visé au paragraphe (2) ne doit amener en Ontario un enfant qui ne réside pas au Canada pour le placer en vue de son adoption sans :

- a) avoir obtenu au préalable l'approbation du directeur prévue à l'article 189 selon laquelle la personne auprès de qui l'enfant doit être placé a la capacité juridique et l'aptitude à adopter;
- b) une fois l'approbation visée à l'alinéa a) obtenue, avoir obtenu l'approbation du directeur prévue à l'article 190 en ce qui concerne le placement projeté.

Approbation du directeur exigée

(5) Nul ne doit accueillir un enfant en vue de son adoption, sauf si l'enfant provient d'une société ou d'un titulaire de permis qui bénéficie de l'exemption prévue au paragraphe (6), sans avoir au préalable obtenu du directeur l'approbation prévue au paragraphe 188 (3) ou 190 (2), selon le cas.

Désignation du titulaire de permis

(6) Le directeur peut désigner un titulaire de permis qui est une agence comme exempté des exigences du paragraphe (3).

Enregistrement des placements

(7) La société ou le titulaire de permis qui place un enfant auprès d'une personne en vue de son adoption enregistre le placement de la manière prescrite dans les 30 jours suivant le placement.

Idem : directeur

(8) Le directeur qui prend connaissance d'un placement qui n'est pas enregistré conformément au paragraphe (7) l'enregistre promptement de la manière prescrite.

Exception : adoptions par la famille au Canada

(9) Les paragraphes (1), (2), (3), (5), (7) et (8) ne s'appliquent pas :

- a) au placement d'un enfant en vue de son adoption auprès d'un membre de sa parenté, d'un parent ou du conjoint d'un parent, si l'enfant qui doit faire l'objet du placement réside au Canada et que le placement a lieu en Ontario;

- b) au fait d'amener ou d'envoyer un enfant hors de l'Ontario en vue de son adoption par un membre de sa parenté, un parent ou le conjoint d'un parent, si le placement a lieu au Canada.

Restrictions applicables aux placements par une société

184 Une société ne doit placer, en vue de son adoption, un enfant confié à ses soins de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) que dans l'un ou l'autre des cas suivants :

- a) le délai pour interjeter appel de l'ordonnance a expiré;
- b) il y a eu règlement définitif ou désistement de tout appel de l'ordonnance.

Planification d'une adoption

185 (1) La présente loi n'a pas pour effet d'interdire à une société de planifier l'adoption d'un enfant confié à ses soins de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) et à l'égard duquel une ordonnance de visite rendue sous le régime de la partie V (Protection de l'enfance) est en vigueur.

Ordonnance ou accord de communication

(2) La société qui commence à planifier l'adoption d'un enfant confié à ses soins de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) doit tenir compte des avantages d'une ordonnance ou d'un accord de communication à l'égard de l'enfant.

Enfant inuit, métis ou de Premières Nations

186 (1) La société qui a l'intention de commencer à planifier l'adoption d'un enfant inuit, métis ou de Premières Nations donne un avis écrit de son intention à un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Programme de soins proposé par une bande ou une communauté

(2) Si un représentant qu'a choisi chacune des bandes ou communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient reçoit l'avis prévu au paragraphe (1), chaque bande et communauté peut, dans les 60 jours suivant la réception de l'avis par le représentant, prendre les mesures suivantes :

- a) préparer son propre programme de soins à fournir à l'enfant;
- b) présenter son programme à la société.

Condition applicable au placement

(3) Une société ne doit pas placer un enfant inuit, métis ou de Premières Nations auprès d'une personne en vue de son adoption tant que l'une ou l'autre des conditions suivantes n'est pas remplie :

- a) une période d'au moins 60 jours s'est écoulée depuis la remise de l'avis à un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations;
- b) la société a tenu compte du programme de soins à fournir à l'enfant que la bande ou la communauté inuite, métisse ou de Premières Nations lui a présenté, s'il y a lieu.

Enfant inuit, métis ou de Premières Nations : ordonnance de communication et autres

187 (1) La société qui commence à planifier l'adoption d'un enfant inuit, métis ou de Premières Nations doit tenir compte de l'importance, pour l'enfant, de nouer ou de maintenir des liens avec les bandes et communautés inuites, métisses ou de Premières Nations auxquelles il appartient.

Accord de communication ou ordonnance de communication

(2) Pour l'application du paragraphe (1), la société tient compte des avantages de l'une ou l'autre des mesures suivantes :

- a) un accord de communication à l'égard de l'enfant et d'un membre des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient;
- b) si l'enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c), une ordonnance de communication à l'égard de l'enfant et d'un représentant des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Enfant résidant au Canada : placement projeté

188 (1) Le titulaire de permis qui a l'intention de prendre l'une ou l'autre des mesures prévues au paragraphe 183 (3) avise le directeur du placement projeté et lui remet également un rapport sur l'étude du milieu familial de la personne auprès de qui l'enfant serait placé.

Auteur du rapport

(2) Le rapport sur l'étude du milieu familial est établi par une personne qui, de l'avis du directeur ou du directeur local, possède les compétences nécessaires à cette fin.

Examen par le directeur

(3) Le directeur examine promptement le rapport sur l'étude du milieu familial et, selon le cas :

- a) approuve le placement projeté;
- b) approuve le placement projeté sous réserve des conditions qu'il estime appropriées, notamment la surveillance du placement :
 - (i) soit par une société, une personne ou un titulaire de permis précis,
 - (ii) soit par un service de bien-être de l'enfance précis et reconnu dans l'autorité législative où a lieu le placement ou par une personne prescrite, si le placement a lieu hors de l'Ontario.
- c) refuse d'approuver le placement projeté.

Avis

(4) Le directeur donne promptement un avis de sa décision d'approuver, avec ou sans conditions, ou de refuser le placement, selon le cas :

- a) à la personne auprès de qui l'enfant serait placé;
- b) au titulaire de permis.

Droit à une audience

(5) Lorsque le directeur donne un avis de sa décision de refuser le placement ou de l'approuver sous conditions, la personne auprès de qui l'enfant serait placé et le titulaire de permis ont droit à une audience devant la Commission.

Application d'autres dispositions

(6) Les articles 233 (audiences), 234 (révision des conditions), 266 (parties) et 267 (appel) s'appliquent à l'audience, avec les adaptations nécessaires, et, à cette fin, les mentions du Tribunal valent mention de la Commission.

Prorogation du délai

(7) Si elle est convaincue qu'il existe des motifs raisonnables pour que, d'une part, la personne auprès de qui l'enfant serait placé ou le titulaire de permis demande la prorogation du délai fixé pour demander l'audience et que, d'autre part, la mesure de redressement soit accordée, la Commission peut prendre les mesures suivantes :

- a) proroger le délai avant ou après son expiration;
- b) donner les directives qu'elle estime appropriées par suite de la prorogation du délai.

Consignation des témoignages

(8) Les témoignages recueillis devant la Commission lors de l'audience sont consignés.

Placement à l'extérieur du Canada

(9) Le directeur ne doit approuver le placement projeté d'un enfant hors du Canada que s'il est convaincu qu'une circonstance particulière prescrite le justifie.

Enfant résidant hors du Canada : étude du milieu familial

189 (1) Le titulaire de permis qui a l'intention d'amener en Ontario un enfant qui ne réside pas au Canada pour le placer en vue de son adoption remet au directeur le rapport sur l'étude du milieu familial de la personne auprès de qui l'enfant serait placé qui visait à évaluer la capacité juridique et l'aptitude de cette personne à adopter.

Auteur du rapport

(2) Le rapport sur l'étude du milieu familial est établi par une personne qui, de l'avis du directeur ou du directeur local, possède les compétences nécessaires à cette fin.

Examen par le directeur

(3) Le directeur examine promptement le rapport sur l'étude du milieu familial et, selon le cas :

- a) agréée sans condition la personne comme ayant la capacité juridique et l'aptitude à adopter;
- b) agréée la personne sous réserve des conditions qu'il juge appropriées;
- c) refuse d'agréer la personne.

Avis

(4) Le directeur donne promptement un avis de sa décision d'agréer, avec ou sans conditions, ou de refuser d'agréer la personne, selon le cas :

- a) d'une part, à la personne qui fait l'objet de l'étude du milieu familial;
- b) d'autre part, au titulaire de permis.

Droit à une audience

(5) Lorsque le directeur donne un avis de sa décision de refuser d'agréer la personne qui fait l'objet de l'étude du milieu familial ou de l'agréer sous conditions, cette personne a droit à une audience devant la Commission.

Application d'autres dispositions

(6) Les dispositions suivantes s'appliquent à l'audience :

1. Les articles 233 (audiences), 234 (révision des conditions), 266 (parties) et 267 (appel), avec les adaptations nécessaires, et, à cette fin, les mentions du Tribunal valent mention de la Commission.
2. Les paragraphes 188 (7) (prorogation du délai) et (8) (consignation des témoignages).

Enfant résidant hors du Canada : examen du placement projeté

190 (1) Si une personne a été agréée, avec ou sans conditions, comme ayant la capacité juridique et l'aptitude à adopter en application de l'article 189 et qu'un titulaire de permis a l'intention de placer un enfant auprès de cette personne en vue de son adoption, le titulaire de permis demande que le directeur examine le placement projeté.

Examen par le directeur

(2) Le directeur examine promptement le placement projeté et, selon le cas :

- a) l'approuve sans condition;
- b) l'approuve sous réserve des conditions qu'il juge appropriées, notamment la surveillance du placement par une société, une personne ou un titulaire de permis précis;
- c) refuse de l'approuver.

Avis

(3) Le directeur donne promptement un avis de l'approbation, avec ou sans conditions, ou du refus, selon le cas :

- a) d'une part, à la personne auprès de qui le placement est projeté;
- b) d'autre part, au titulaire de permis.

Droit à une audience

(4) Lorsque le directeur donne un avis de sa décision de refuser le placement ou de l'approuver sous conditions, la personne auprès de qui l'enfant serait placé et le titulaire de permis ont droit à une audience devant la Commission.

Application d'autres dispositions

(5) Les dispositions suivantes s'appliquent à l'audience :

1. Les articles 233 (audiences), 234 (révision des conditions), 266 (parties) et 267 (appel), avec les adaptations nécessaires, et, à cette fin, les mentions du Tribunal valent mention de la Commission.
2. Les paragraphes 188 (7) (prorogation du délai) et (8) (consignation des témoignages).

Révocation de l'ordonnance de visite

191 (1) Lorsqu'une société ou un titulaire de permis place un enfant en vue de son adoption, toutes les ordonnances portant sur le droit de visite sont révoquées, y compris celles qui sont rendues sous le régime de la partie V (Protection de l'enfance) à l'égard d'un enfant confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c).

Interdiction de s'ingérer dans le placement

(2) Si un enfant a été placé en vue de son adoption par une société ou un titulaire de permis et qu'aucune ordonnance d'adoption n'a été rendue, nul ne doit :

- a) s'ingérer dans la vie de l'enfant;
- b) rendre visite à l'enfant ou à la personne auprès de qui il a été placé, ni communiquer avec l'enfant ou cette personne dans le but de s'ingérer dans la vie de l'enfant.

DÉCISION DE REFUSER DE PLACER L'ENFANT OU DE RETIRER L'ENFANT DÉJÀ PLACÉ**Décision de la société ou du titulaire de permis**

192 (1) Le présent article s'applique si, selon le cas :

- a) une société décide de refuser la demande d'adoption d'un enfant précis qu'a présentée un parent de famille d'accueil ou une autre personne;
- b) une société ou un titulaire de permis décide de retirer un enfant qui a été placé auprès d'une personne en vue de son adoption.

Avis de la décision

(2) La société ou le titulaire de permis qui prend une décision visée au paragraphe (1) prend les mesures suivantes :

- a) il donne à la personne qui a présenté la demande d'adoption de l'enfant ou auprès de qui l'enfant avait été placé en vue de son adoption un avis écrit d'au moins 10 jours de sa décision;
- b) il joint à l'avis prévu à l'alinéa a) un avis informant la personne qu'elle a le droit de demander une révision de la décision en vertu du paragraphe (3);
- c) dans le cas d'un enfant inuit, métis ou de Premières Nations, il donne l'avis exigé par les alinéas a) et b) et :
 - (i) donne un avis écrit d'au moins 10 jours de sa décision à un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient,
 - (ii) après avoir donné l'avis, consulte les représentants de la bande ou de la communauté inuite, métisse ou de Premières Nations au sujet de la planification des soins à fournir à l'enfant.

Demande de révision

(3) Sous réserve du paragraphe (4), la personne qui reçoit l'avis d'une décision prévu au paragraphe (2) peut, dans les 10 jours suivant la réception de l'avis et conformément aux règlements, demander à la Commission de réviser la décision.

Aucune révision

(4) Si une société reçoit une demande d'adoption à l'égard d'un enfant qui, au moment de la demande, avait été placé auprès d'une autre personne en vue de son adoption, l'auteur de la demande n'a pas le droit de demander la révision de la décision de la société de refuser la demande.

Audience de la Commission

(5) Sur réception d'une demande de révision d'une décision présentée en vertu du paragraphe (3), la Commission tient une audience en application du présent article.

Enfant inuit, métis ou de Premières Nations

(6) Sur réception d'une demande de révision d'une décision concernant un enfant inuit, métis ou de Premières Nations, la Commission donne un avis de la demande et de la date de l'audience à un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.

Règles de pratique et de procédure

(7) La *Loi sur l'exercice des compétences légales* s'applique à l'audience prévue au présent article. La Commission se conforme aux règles de pratique et de procédure supplémentaires prescrites.

Composition de la Commission

(8) Lors de l'audience prévue au paragraphe (5), la Commission se compose de membres qui possèdent l'expérience prescrite et les qualités requises prescrites.

Parties

(9) Les personnes suivantes sont parties à l'audience prévue au présent article :

1. L'auteur de la demande.
2. La société ou le titulaire de permis.
3. Dans le cas d'un enfant inuit, métis ou de Premières Nations, les personnes visées aux dispositions 1 et 2 et un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.
4. Toute personne que la Commission joint comme partie en vertu du paragraphe (10).

Jonction de parties

(10) La Commission peut joindre une personne comme partie à la révision si, à son avis, cela est nécessaire afin de trancher toutes les questions sur lesquelles porte la révision.

Décision de la Commission

(11) En fonction de la décision qu'elle a prise relativement à la mesure adaptée à l'intérêt véritable de l'enfant, la Commission confirme ou annule la décision faisant l'objet de la révision et donne les motifs de sa décision par écrit.

Placement subséquent

(12) Après qu'une société ou qu'un titulaire de permis a pris une décision visée au paragraphe (1) concernant un enfant, la société ne doit pas placer l'enfant en vue de son adoption auprès d'une personne qui n'est pas celle qui a le droit de demander la révision d'une décision en vertu du paragraphe (3), sauf si :

- a) le délai imparti pour demander la révision de la décision en vertu du paragraphe (3) a expiré et aucune demande n'a été présentée;
- b) dans le cas où une demande de révision de la décision a été présentée en vertu du paragraphe (3), la Commission a confirmé la décision.

Aucun retrait avant la décision de la Commission

(13) Sous réserve du paragraphe (14), si une société ou un titulaire de permis a décidé de retirer un enfant des soins d'une personne auprès de qui il a été placé en vue de son adoption, la société ou le titulaire de permis, selon le cas, ne doit pas donner suite à sa proposition de retrait de l'enfant, sauf si :

- a) le délai imparti pour demander la révision de la décision en vertu du paragraphe (3) a expiré et aucune demande n'a été présentée;
- b) dans le cas où une demande de révision de la décision a été présentée en vertu du paragraphe (3), la Commission a confirmé la décision.

Cas où l'enfant risque de subir des maux

(14) Une société ou un titulaire de permis peut donner suite à une décision de retirer un enfant des soins d'une personne auprès de qui il a été placé en vue de son adoption avant l'expiration du délai imparti pour demander la révision d'une décision en vertu du paragraphe (3) ou après la présentation de la demande de révision si, de l'avis du directeur ou du directeur local, l'enfant risque vraisemblablement de subir des maux pendant le laps de temps nécessaire à la révision de la décision par la Commission.

Avis au directeur

193 (1) Si un enfant a été placé en vue de son adoption sous le régime de la présente partie, qu'aucune ordonnance d'adoption n'a été rendue et que, selon le cas :

- a) la personne auprès de qui l'enfant est placé demande à la société ou au titulaire de permis de retirer l'enfant;
- b) la société ou le titulaire de permis a l'intention de retirer l'enfant à cette personne,

la société ou le titulaire de permis en avise le directeur.

Idem

(2) Si aucune ordonnance d'adoption de l'enfant n'a été rendue et qu'une année s'est écoulée depuis :

- a) soit le placement de l'enfant en vue de son adoption ou le plus récent consentement prévu à l'alinéa 180 (2) a), selon le premier de ces événements;
- b) soit le plus récent examen prévu au paragraphe (3) du présent article,

selon le dernier de ces événements à se réaliser, la société ou le titulaire de permis en avise le directeur, sauf si l'enfant est confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c).

Examen par le directeur

(3) Le directeur qui reçoit l'avis prévu au paragraphe (1) ou (2) effectue un examen conformément aux règlements.

ORDONNANCES DE COMMUNICATION

Aucune ordonnance de visite en vigueur

Requête en ordonnance de communication

194 (1) Si un enfant confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) fait également l'objet d'un plan d'adoption et si aucune

ordonnance de visite rendue sous le régime de la partie V (Protection de l'enfance) n'est en vigueur, la société à laquelle les soins et la garde de l'enfant sont confiés peut, avant qu'une ordonnance d'adoption de l'enfant soit rendue en vertu de l'article 199, présenter une requête au tribunal en vue d'obtenir une ordonnance de communication à l'égard de l'enfant.

Avis de requête

(2) La société qui présente la requête prévue au présent article en donne avis aux personnes et entités suivantes :

- a) l'enfant;
- b) chaque personne qui sera autorisée à communiquer ou à entretenir une relation avec l'enfant si l'ordonnance est rendue;
- c) toute personne auprès de qui la société a placé ou compte placer l'enfant en vue de son adoption;
- d) toute société qui supervisera l'arrangement prévu par l'ordonnance de communication ou qui y participera.

Mode de remise de l'avis à un enfant

(3) L'avis remis à l'enfant en application du paragraphe (2) est donné en en remettant une copie :

- a) à l'avocat des enfants;
- b) à l'avocat de l'enfant, s'il y a lieu;
- c) à l'enfant, s'il a 12 ans ou plus.

Ordonnance de communication

(4) Le tribunal peut rendre une ordonnance de communication à l'égard d'un enfant en vertu du présent article s'il est convaincu de ce qui suit :

- a) l'ordonnance est dans l'intérêt véritable de l'enfant;
- b) l'ordonnance permettra à l'enfant de maintenir avec une personne une relation bénéfique et importante pour lui;
- c) les entités et personnes suivantes ont consenti à ce que l'ordonnance soit rendue :
 - (i) la société,
 - (ii) la personne qui sera autorisée à communiquer ou à entretenir une relation avec l'enfant si l'ordonnance est rendue,
 - (iii) la personne auprès de qui la société a placé ou compte placer l'enfant en vue de son adoption,
 - (iv) l'enfant, s'il a 12 ans ou plus.

Révocation de l'ordonnance de communication en cas de révocation de l'ordonnance confiant un enfant aux soins d'une société de façon prolongée

(5) L'ordonnance de communication rendue en vertu du présent article à l'égard d'un enfant est révoquée si l'enfant cesse d'être confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) par l'effet d'une ordonnance rendue en vertu du paragraphe 116 (1).

Ordonnance de visite en vigueur

Avis d'intention de placer un enfant en vue de son adoption

195 (1) Le présent article s'applique si les conditions suivantes sont réunies :

- a) la société a l'intention de placer un enfant confié à ses soins de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) en vue de son adoption;
- b) une ordonnance rendue sous le régime de la partie V (Protection de l'enfance) et portant sur le droit de visite d'une personne à l'enfant, ou réciproquement, est en vigueur.

Avis

(2) Dans les circonstances mentionnées au paragraphe (1), la société donne un avis aux personnes suivantes :

1. Chaque personne qui a obtenu le droit de visite prévu par l'ordonnance de visite.
2. Chaque personne à l'égard de laquelle le droit de visite a été accordé en vertu de l'ordonnance de visite.

Contenu de l'avis

(3) La société précise ce qui suit dans l'avis :

1. Le fait qu'elle a l'intention de placer l'enfant en vue de son adoption.
2. Le fait que l'ordonnance de visite est révoquée dès le placement de l'enfant en vue de son adoption.

3. Dans le cas d'un avis à une personne visée à la disposition 1 du paragraphe (2), le fait que cette personne a le droit de demander, par voie de requête, une ordonnance de communication dans les 30 jours suivant la réception de l'avis.
4. Dans le cas d'un avis à une personne visée à la disposition 2 du paragraphe (2), le fait que la personne visée à la disposition 1 du paragraphe (2) a le droit de demander, par voie de requête, une ordonnance de communication dans les 30 jours suivant la réception de l'avis.

Mode de remise de l'avis

(4) L'avis peut être donné :

- a) si la personne n'est pas un enfant, en en remettant une copie :
 - (i) à la personne elle-même,
 - (ii) si la personne semble être mentalement incapable à l'égard d'une question visée dans l'avis, à la personne elle-même ainsi qu'à son tuteur aux biens ou, si elle n'en a pas, au tuteur et curateur public,
 - (iii) à un avocat qui accuse réception de l'avis par écrit sur la copie;
- b) si la personne est un enfant, en en remettant une copie :
 - (i) à l'avocat des enfants,
 - (ii) à l'avocat de l'enfant, s'il y a lieu,
 - (iii) à l'enfant, s'il a 12 ans ou plus.

Autre mode

(5) Sur requête sans préavis de la société, le tribunal peut ordonner que l'avis prévu au paragraphe (2) soit donné selon l'autre mode qu'il choisit si la société remplit les conditions suivantes :

- a) elle fournit des preuves détaillées de ce qui suit :
 - (i) les démarches faites pour trouver le destinataire de l'avis,
 - (ii) si le destinataire a été trouvé, les démarches faites pour lui donner l'avis;
- b) elle démontre que l'autre mode pourrait, selon toutes attentes raisonnables, porter l'avis à la connaissance de la personne.

Avis non exigé

(6) Sur requête sans préavis de la société, le tribunal peut ordonner que la société ne soit pas tenue de donner l'avis prévu au paragraphe (2) si les conditions suivantes sont réunies :

- a) des efforts raisonnables pour trouver le destinataire de l'avis n'ont pas donné ou ne donneraient pas de résultats;
- b) aucun mode de remise de l'avis ne pourrait, selon toutes attentes raisonnables, porter celui-ci à la connaissance de la personne.

Ordonnance de visite en vigueur**Requête en ordonnance de communication**

196 (1) Une personne visée à la disposition 1 du paragraphe 195 (2) peut, dans les 30 jours suivant la réception de l'avis, présenter au tribunal une requête en ordonnance de communication.

Avis de requête

(2) La personne qui présente une requête en ordonnance de communication en vertu du présent article en donne avis aux personnes et entités suivantes :

- a) la société à laquelle les soins et la garde de l'enfant sont confiés;
- b) si une personne autre que l'enfant présente la requête, l'enfant;
- c) si l'enfant présente la requête, la personne qui sera autorisée à communiquer ou à entretenir une relation avec lui si l'ordonnance est rendue.

Mode de remise de l'avis à un enfant

(3) L'avis remis à l'enfant en application du paragraphe (2) est donné en en remettant une copie :

- a) à l'avocat des enfants;
- b) à l'avocat de l'enfant, s'il y a lieu;
- c) à l'enfant, s'il a 12 ans ou plus.

Restriction : placement

(4) La société ne doit pas placer l'enfant en vue de son adoption tant que n'a pas expiré le délai fixé pour présenter la requête en ordonnance de communication prévu au paragraphe (1), sauf si chaque personne ayant le droit de le faire a présenté une telle requête en vertu du présent article.

Renseignements avant le placement

(5) Si une requête en ordonnance de communication a été présentée en vertu du présent article, la société doit, avant le placement de l'enfant en vue de son adoption, informer la personne auprès de qui elle compte placer l'enfant de ce qui suit :

1. Le fait qu'une telle requête a été présentée.
2. La relation entre le requérant et l'enfant ou, si l'enfant est le requérant, la relation entre l'enfant et la personne avec laquelle il sera autorisé à communiquer ou à entretenir une relation si l'ordonnance est rendue.
3. Les détails de l'arrangement en matière de communication demandé.

Issue de la requête

(6) Si une requête en ordonnance de communication a été présentée en vertu du présent article, la société communique l'issue de la requête à la personne auprès de qui elle a placé ou compte placer l'enfant en vue de son adoption ou, après qu'une ordonnance d'adoption est rendue, au parent adoptif.

Ordonnance de communication

(7) Le tribunal peut rendre une ordonnance de communication en vertu du présent article à l'égard d'un enfant s'il est convaincu de ce qui suit :

- a) l'ordonnance est dans l'intérêt véritable de l'enfant;
- b) l'ordonnance permettra à l'enfant de maintenir avec une personne une relation bénéfique et importante pour lui;
- c) l'enfant a donné son consentement à l'ordonnance, s'il a 12 ans ou plus.

Idem

(8) Lorsqu'il décide de rendre ou non une ordonnance de communication en vertu du présent article, le tribunal tient compte de la capacité de la personne auprès de qui la société a placé ou compte placer l'enfant en vue de son adoption ou, après que l'ordonnance d'adoption est rendue, du parent adoptif, de respecter l'arrangement prévu par l'ordonnance de communication.

Consentement obligatoire de la société

(9) Le tribunal ne doit pas, en vertu du présent article, ordonner à une société de superviser l'arrangement prévu par une ordonnance de communication ou de participer à un tel arrangement sans le consentement de la société.

Révocation de l'ordonnance de communication en cas de révocation de l'ordonnance confiant un enfant aux soins d'une société de façon prolongée

(10) L'ordonnance de communication rendue en vertu du présent article à l'égard d'un enfant est révoquée si l'ordonnance confiant l'enfant aux soins d'une société de façon prolongée rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) est révoquée par l'effet d'une ordonnance rendue en vertu du paragraphe 116 (1).

Ordonnances provisoires

(11) Le tribunal peut rendre, en vertu du présent article, les ordonnances provisoires en matière de communication qu'il estime être dans l'intérêt véritable de l'enfant.

Ordonnance de communication : bande et communauté inuite, métisse ou de Premières Nations

197 (1) Le présent article s'applique si une société a l'intention de placer un enfant inuit, métis ou de Premières Nations confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) en vue de son adoption.

Avis

(2) Dans les circonstances mentionnées au paragraphe (1), la société donne un avis aux personnes suivantes :

1. Un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient.
2. L'enfant.

Contenu de l'avis

(3) La société précise ce qui suit dans l'avis :

1. Le fait qu'elle a l'intention de placer l'enfant en vue de son adoption.

2. Le fait que le particulier a le droit de demander, par voie de requête, une ordonnance de communication dans les 30 jours suivant la réception de l'avis.
3. Le fait qu'elle a le droit de demander, par voie de requête, une ordonnance de communication dans les 30 jours suivant la remise de l'avis.

Mode de remise de l'avis

(4) Si un avis est exigé en application du paragraphe (2) :

- a) il est donné :
 - (i) si la personne n'est pas un enfant, en en remettant une copie à la personne ou à un avocat qui accuse réception de l'avis par écrit sur la copie,
 - (ii) si la personne est un enfant, en en remettant une copie :
 - (A) à l'avocat des enfants,
 - (B) à l'avocat de l'enfant, s'il y a lieu,
 - (C) à l'enfant, s'il a 12 ans ou plus;
- b) les paragraphes 195 (5) et (6) s'appliquent avec les adaptations nécessaires.

Requête en ordonnance de communication

(5) La personne visée à la disposition 1 ou 2 du paragraphe (2) peut, dans les 30 jours suivant la réception de l'avis, présenter au tribunal une requête en ordonnance de communication.

Idem : société

(6) La société peut, dans les 30 jours suivant la remise de l'avis, présenter au tribunal une requête en ordonnance de communication.

Avis de requête

(7) La personne ou la société qui présente une requête en ordonnance de communication en vertu du présent article en donne avis à toute autre personne ou société qui aurait pu la présenter.

Mode de remise de l'avis à un enfant

(8) L'avis remis à l'enfant en application du paragraphe (7) est donné en en remettant une copie :

- a) à l'avocat des enfants;
- b) à l'avocat de l'enfant, s'il y a lieu;
- c) à l'enfant, s'il a 12 ans ou plus.

Ordonnance de communication

(9) Le tribunal peut rendre une ordonnance de communication en vertu du présent article à l'égard d'un enfant s'il est convaincu de ce qui suit :

- a) l'ordonnance est dans l'intérêt véritable de l'enfant;
- b) l'ordonnance aidera l'enfant à nouer ou à maintenir des liens avec la culture, le patrimoine et les traditions de la communauté inuite, metisse ou de Premières Nations à laquelle il appartient et à préserver son identité culturelle et les liens qui l'unissent à la communauté;
- c) l'enfant a donné son consentement à l'ordonnance, s'il a 12 ans ou plus.

Application d'autres dispositions

(10) Les paragraphes 196 (4) à (6) et (8) à (11) s'appliquent, avec les adaptations nécessaires, dans le cadre du présent article.

Requête en modification ou en révocation de l'ordonnance de communication avant l'adoption

198 (1) La société ou la personne auprès de qui l'enfant a été placé en vue de son adoption peut, par voie de requête, demander au tribunal de rendre une ordonnance visant à modifier ou à révoquer une ordonnance de communication rendue en vertu de l'article 194, 196 ou 197.

Présentation de la requête

(2) La requête prévue au présent article ne doit pas être présentée après qu'une ordonnance d'adoption de l'enfant est rendue en vertu de l'article 199.

Avis de requête

(3) La société ou la personne qui présente une requête en vertu du présent article en donne avis aux personnes et entités suivantes :

- a) l'enfant;
- b) chaque personne qui est autorisée à communiquer ou à entretenir une relation avec l'enfant en application de l'ordonnance de communication;
- c) toute personne auprès de qui la société a placé ou compte placer l'enfant en vue de son adoption, si la requête est présentée par la société;
- d) toute société qui supervise l'arrangement prévu par l'ordonnance de communication ou qui y participe.

Mode de remise de l'avis à un enfant

(4) L'avis remis à l'enfant en application du paragraphe (3) est donné en remettant une copie :

- a) à l'avocat des enfants;
- b) à l'avocat de l'enfant, s'il y a lieu;
- c) à l'enfant, s'il a 12 ans ou plus.

Ordonnance visant à modifier l'ordonnance de communication avant l'adoption

(5) Le tribunal ne doit pas rendre l'ordonnance prévue au présent article visant à modifier une ordonnance de communication, sauf s'il est convaincu de ce qui suit :

- a) un changement important de circonstances est survenu;
- b) l'ordonnance proposée est dans l'intérêt véritable de l'enfant;
- c) selon le cas :
 - (i) l'ordonnance proposée maintiendrait une relation qui est bénéfique et importante pour l'enfant,
 - (ii) dans le cas d'une ordonnance de communication rendue en vertu de l'article 197, l'ordonnance proposée aiderait l'enfant à nouer ou à maintenir des liens avec la culture, le patrimoine et les traditions des communautés inuites, métisses ou de Premières Nations auxquelles il appartient et à préserver son identité culturelle et les liens qui l'unissent à la communauté.

Ordonnance révoquant l'ordonnance de communication avant l'adoption

(6) Le tribunal ne doit pas révoquer une ordonnance de communication en vertu du présent article, sauf s'il est convaincu de ce qui suit :

- a) un changement important de circonstances est survenu;
- b) la révocation est dans l'intérêt véritable de l'enfant;
- c) dans le cas d'une ordonnance de communication rendue en vertu de l'article 194 ou 196, la relation faisant l'objet de l'ordonnance n'est plus bénéfique et importante pour l'enfant.

Consentement obligatoire de la société

(7) Le tribunal ne doit pas, en vertu du présent article, ordonner à une société de superviser l'arrangement prévu par une ordonnance de communication ou d'y participer sans le consentement de la société.

Règlement extrajudiciaire des différends

(8) À n'importe quelle étape d'une instance introduite sous le régime du présent article, le tribunal peut, dans l'intérêt véritable de l'enfant et avec le consentement des parties, ajourner l'instance en vue de permettre aux parties de tenter de régler, au moyen d'une méthode prescrite de règlement extrajudiciaire des différends, tout différend qui les oppose à l'égard d'une question qui se rapporte à l'instance.

Ordonnances provisoires

(9) Le tribunal peut rendre, en vertu du présent article, les ordonnances provisoires en matière de communication qu'il estime être dans l'intérêt véritable de l'enfant.

ORDONNANCES D'ADOPTION

Ordonnances d'adoption**Adoption d'un enfant**

199 (1) À la requête de la personne auprès de qui un enfant est placé et dans l'intérêt véritable de cet enfant, le tribunal peut rendre une ordonnance portant sur l'adoption d'un enfant de moins de 16 ans, ou de 16 ans ou plus mais qui ne s'est pas soustrait à l'autorité parentale, et qui :

- a) soit a été placé, en vue de son adoption, par une société ou un titulaire de permis;
- b) soit a été placé, en vue de son adoption, par une personne autre qu'une société ou un titulaire de permis et qui a demeuré chez le requérant pendant au moins deux ans.

Adoption par la famille

(2) Le tribunal peut, dans l'intérêt véritable d'un enfant, rendre une ordonnance d'adoption à la suite de la requête de l'une ou l'autre des personnes suivantes :

- a) un membre de la parenté de l'enfant;
- b) un parent de l'enfant;
- c) le conjoint d'un parent de l'enfant.

Adoption d'un adulte ou d'un enfant soustrait à l'autorité parentale

(3) À la requête d'une tierce personne, le tribunal peut rendre une ordonnance portant sur l'adoption :

- a) d'une personne de 18 ans ou plus;
- b) d'un enfant de 16 ans ou plus qui s'est soustrait à l'autorité parentale.

Personnes pouvant présenter une requête

(4) Seules les personnes suivantes peuvent présenter une requête en vertu du présent article :

- a) une personne qui agit seule;
- b) deux personnes dont l'une est le conjoint de l'autre, qui agissent conjointement.

Condition : résidence

(5) Le tribunal ne doit pas rendre une ordonnance en vertu du présent article portant sur l'adoption d'une personne qui ne réside pas en Ontario ou à la requête d'une telle personne.

Requérant mineur

200 Le tribunal ne doit pas rendre une ordonnance en vertu de l'article 199 à la requête d'une personne de moins de 18 ans, à moins qu'il ne soit convaincu que des circonstances particulières justifient l'ordonnance.

Cas où l'ordonnance ne doit pas être rendue

201 Si le tribunal a rendu une ordonnance :

- a) soit au moyen de laquelle il permet, conformément à l'article 181, de passer outre à l'obtention d'un consentement;
- b) soit au moyen de laquelle il refuse la possibilité de retrait tardif d'un consentement prévue au paragraphe 182 (1).

il ne doit pas rendre l'ordonnance prévue à l'article 199 avant le dernier en date des événements suivants :

- c) l'expiration du délai fixé pour interjeter appel de l'ordonnance;
- d) le règlement définitif de l'appel ou le désistement d'une partie.

Déclaration du directeur

202 (1) Si une requête en ordonnance d'adoption d'un enfant prévue au paragraphe 199 (1) est présentée, le directeur doit, avant l'audience, déposer auprès du tribunal une déclaration écrite dans laquelle il indique que, selon le cas :

- a) l'enfant a demeuré auprès du requérant pendant au moins six mois ou, dans le cas de la requête prévue à l'alinéa 199 (1) b), pendant au moins deux ans, et, qu'à son avis, il serait dans l'intérêt véritable de l'enfant de rendre l'ordonnance;
- b) dans le cas de la requête prévue à l'alinéa 199 (1) a), il est d'avis, pour des motifs précis, qu'il serait dans l'intérêt véritable de l'enfant de rendre l'ordonnance même si l'enfant a demeuré moins de six mois auprès du requérant;
- c) l'enfant a demeuré auprès du requérant pendant au moins six mois, ou, dans le cas de la requête prévue à l'alinéa 199 (1) b), pendant au moins deux ans, mais, qu'à son avis, il ne serait pas dans l'intérêt véritable de l'enfant de rendre l'ordonnance.

Circonstances supplémentaires

(2) La déclaration écrite doit mentionner les circonstances supplémentaires, s'il y a lieu, sur lesquelles le directeur veut attirer l'attention du tribunal.

Déclaration du directeur local

(3) Si l'enfant a été placé par une société et a demeuré auprès du requérant pendant au moins six mois, le directeur local peut faire et déposer la déclaration écrite.

Modification de la déclaration et autres pouvoirs

(4) Le directeur ou le directeur local, selon le cas, peut modifier la déclaration écrite à tout moment, participer à l'audience et faire des observations.

Recommandation négative

(5) Si la déclaration écrite indique que le directeur ou le directeur local est d'avis qu'il ne serait pas dans l'intérêt véritable de l'enfant de rendre l'ordonnance prévue, une copie de la déclaration est déposée auprès du tribunal et est signifiée au requérant au moins 30 jours avant l'audience.

Rapport : adaptation de l'enfant

(6) La déclaration écrite doit se fonder sur un rapport indiquant la manière dont l'enfant s'adapte au foyer du requérant. Ce rapport doit être établi :

- a) soit par la société qui a placé l'enfant ou qui a compétence dans le territoire où l'enfant est placé;
- b) soit par la personne qu'agrée le directeur ou le directeur local.

Adoption par la famille

(7) Si une requête en ordonnance d'adoption d'un enfant est présentée en vertu du paragraphe 199 (2) :

- a) les paragraphes (1), (2), (4), (5) et (6) s'appliquent à la requête, si l'enfant ne résidait pas au Canada avant d'être placé en vue de son adoption;
- b) le tribunal peut ordonner que les paragraphes (1), (2), (4), (5) et (6) s'appliquent à la requête, si l'enfant résidait au Canada avant d'être placé en vue de son adoption.

Lieu de l'audience

203 (1) La requête en ordonnance d'adoption est entendue et traitée dans le comté ou le district dans lequel réside, lors du dépôt de la requête :

- a) soit le requérant;
- b) soit la personne qui doit être adoptée.

Renvoi

(2) Si le tribunal est convaincu à une étape quelconque d'une requête en ordonnance d'adoption qu'il serait plus pratique d'instruire l'instance dans un autre comté ou district, il peut ordonner le renvoi de l'instance dans ce comté ou district et sa poursuite comme si elle y avait été introduite.

Règles : requêtes**Huis clos**

204 (1) La requête en ordonnance d'adoption est entendue et traitée à huis clos.

Caractère confidentiel des dossiers

(2) Nul ne doit avoir accès aux dossiers du tribunal concernant la requête en ordonnance d'adoption, sauf :

- a) le tribunal et ses employés autorisés;
- b) les parties et les personnes qui les représentent en vertu de la *Loi sur le Barreau*;
- c) le directeur et le directeur local.

Requête non entendue

(3) Si la requête en ordonnance d'adoption n'est pas entendue dans les 12 mois de sa signature par le requérant :

- a) le tribunal ne doit pas l'entendre, sauf s'il est convaincu qu'il est juste de le faire;
- b) le requérant peut en présenter une autre.

Aucun droit à l'avis

(4) N'a pas le droit de recevoir l'avis de la requête prévue à l'article 199 quiconque, selon le cas :

- a) a donné le consentement prévu à l'alinéa 180 (2) a) et ne l'a pas retiré;
- b) a bénéficié de la dispense en matière de consentement prévue à l'article 181;
- c) est un parent d'un enfant confié aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) et placé en vue de son adoption.

Pouvoir du tribunal

205 (1) Le tribunal peut, de sa propre initiative, assigner une personne à comparaître devant lui, à témoigner et à produire un document ou une chose. Il peut faire exécuter l'assignation comme si elle avait été délivrée dans le cadre d'une instance introduite sous le régime de la *Loi sur le droit de la famille*.

Obligation du tribunal

(2) Le tribunal ne doit rendre l'ordonnance d'adoption prévue au paragraphe 199 (1) ou (2) que s'il est convaincu que :

- a) chaque personne qui a donné le consentement prévu à l'article 180 comprend la nature et les effets de l'ordonnance d'adoption;
- b) chaque requérant comprend bien le rôle particulier d'un parent adoptif.

Participation de l'enfant

(3) Si une requête en ordonnance d'adoption prévue au paragraphe 199 (1) ou (2) est présentée, le tribunal :

- a) examine si l'enfant a la capacité juridique de comprendre et de saisir la nature de la requête;
- b) prend en considération l'opinion et les désirs de l'enfant et tient dûment compte de ceux-ci eu égard à son âge et à son degré de maturité;
- c) entend l'enfant, si les circonstances s'y prêtent.

Participation d'un adulte

(4) Si une requête en ordonnance d'adoption d'une personne prévue au paragraphe 199 (3) est présentée, le tribunal doit étudier l'opinion et les désirs de la personne et il l'entend, sur demande.

Changement de nom

206 (1) Si le tribunal rend une ordonnance en vertu de l'article 199, il peut, à la demande du ou des requérants et, si l'adopté a 12 ans ou plus, avec le consentement écrit de ce dernier :

- a) changer le nom de famille de l'adopté et lui donner celui que l'adopté aurait pu avoir s'il avait été l'enfant du ou des requérants à sa naissance;
- b) changer le prénom de l'adopté.

Consentement de l'enfant non exigé

(2) Le consentement de l'enfant au changement de nom prévu au paragraphe (1) n'est pas exigé s'il a été passé outre à l'obtention de son consentement en vertu du paragraphe 180 (9).

Modification ou révocation d'une ordonnance de communication après l'adoption

207 (1) L'une ou l'autre des personnes suivantes peut, après qu'une ordonnance d'adoption a été rendue en vertu de l'article 199, présenter au tribunal une requête en modification ou en révocation d'une ordonnance de communication rendue en vertu de l'article 194, 196 ou 197 :

1. Un parent adoptif.
2. L'enfant adopté.
3. La personne qui est autorisée à communiquer ou à entretenir une relation avec l'enfant en vertu de l'ordonnance de communication.
4. La société qui supervise l'arrangement prévu par l'ordonnance de communication faisant l'objet de la requête ou qui y participe.

Autorisation du tribunal

(2) Malgré les dispositions 2 et 3 du paragraphe (1), l'enfant et la personne qui est autorisée à communiquer ou à entretenir une relation avec l'enfant en vertu d'une ordonnance de communication ne doivent pas présenter la requête prévue au paragraphe (1) sans l'autorisation du tribunal.

Compétence territoriale

(3) La requête prévue au paragraphe (1) est présentée dans le comté ou le district :

- a) où réside l'enfant, s'il réside en Ontario;
- b) où a été rendue l'ordonnance d'adoption de l'enfant, s'il ne réside pas en Ontario, à moins que le tribunal ne soit convaincu qu'il serait plus pratique de trancher la question dans un autre comté ou district.

Avis

(4) La personne qui présente la requête prévue au paragraphe (1) en donne avis à chaque personne qui aurait pu présenter une requête en vertu de ce paragraphe relativement à l'ordonnance.

Mode de remise de l'avis à un enfant

(5) L'avis remis à un enfant en application du paragraphe (4) est donné en en remettant une copie :

- a) à l'avocat des enfants;
- b) à l'avocat de l'enfant, s'il y a lieu;
- c) à l'enfant, s'il a 12 ans ou plus.

Ordonnance visant à modifier l'ordonnance de communication

(6) Le tribunal ne doit pas rendre une ordonnance en vertu du présent article visant à modifier l'ordonnance de communication, sauf s'il est convaincu de ce qui suit :

- a) un changement important de circonstances est survenu;
- b) l'ordonnance proposée est dans l'intérêt véritable de l'enfant;
- c) selon le cas :
 - (i) l'ordonnance proposée maintiendrait une relation qui est bénéfique et importante pour l'enfant,
 - (ii) dans le cas d'une ordonnance de communication rendue en vertu de l'article 197, l'ordonnance proposée aiderait l'enfant à nouer ou à maintenir des liens avec la culture, le patrimoine et les traditions des bandes et communautés autochtones, métisses ou de Premières Nations auxquelles il appartient et à préserver son identité culturelle et les liens qui l'unissent à la communauté.

Ordonnance visant à révoquer l'ordonnance de communication

(7) Le tribunal ne doit pas révoquer une ordonnance de communication en vertu du présent article, sauf s'il est convaincu de ce qui suit :

- a) un changement important de circonstances est survenu;
- b) la révocation est dans l'intérêt véritable de l'enfant;
- c) dans le cas d'une ordonnance de communication rendue en vertu de l'article 194 ou 196, la relation faisant l'objet de l'ordonnance n'est plus bénéfique et importante pour l'enfant.

Consentement obligatoire de la société

(8) Le tribunal ne doit pas, en vertu du présent article, ordonner à une société de superviser l'arrangement prévu par une ordonnance de communication ou d'y participer sans le consentement de la société.

Règlement extrajudiciaire des différends

(9) À n'importe quelle étape d'une instance introduite sous le régime du présent article, le tribunal peut, dans l'intérêt véritable de l'enfant et avec le consentement des parties, ajourner l'instance en vue de permettre aux parties de tenter de régler, au moyen d'une méthode prescrite de règlement extrajudiciaire des différends, tout différend qui les oppose à l'égard d'une question qui se rapporte à l'instance.

Appel de l'ordonnance visant à modifier ou à révoquer l'ordonnance de communication

208 (1) Peut interjeter appel devant la Cour supérieure de justice d'une ordonnance du tribunal rendue en vertu de l'article 198 ou 207 :

- a) toute personne qui avait le droit de demander, par voie de requête, l'ordonnance visant à modifier ou à révoquer l'ordonnance de communication;
- b) toute personne qui avait le droit de recevoir un avis de la requête en modification ou en révocation de l'ordonnance de communication.

Ordonnance provisoire

(2) En attendant le règlement définitif de l'appel, la Cour supérieure de justice peut, à la suite d'une motion présentée par une partie, rendre une ordonnance provisoire dans l'intérêt véritable de l'enfant qui modifie ou suspend l'ordonnance de communication.

Aucune prorogation du délai

(3) Aucune prorogation du délai d'appel n'est accordée.

Preuve supplémentaire

(4) La Cour peut recevoir des éléments de preuve supplémentaires qui se rapportent à des événements postérieurs à la décision portée en appel.

Lieu de l'audience

(5) L'appel interjeté en vertu du présent article est entendu dans le comté ou le district où l'ordonnance portée en appel a été rendue.

Application de l'article 204

209 Les paragraphes 204 (1) et (2) s'appliquent, avec les adaptations nécessaires, aux instances introduites en vertu des articles 194, 196, 197, 198, 207 et 208.

Participation possible de l'enfant

210 Un enfant a le droit de participer à l'instance introduite en vertu de l'article 194, 196, 197, 198, 207 ou 208 comme s'il y était partie.

Représentation par un avocat

211 (1) L'enfant peut être représenté par un avocat à n'importe quelle étape d'une instance introduite en vertu de l'article 194, 196, 197, 198, 207 ou 208, et le paragraphe 78 (2) s'applique, avec les adaptations nécessaires, à une telle instance.

Avocat des enfants

(2) L'avocat des enfants peut représenter un enfant en vertu de la présente partie s'il est d'avis que cela est approprié.

Renvoi à l'avocat des enfants

(3) Si elle décide qu'il est souhaitable qu'un avocat représente l'enfant, la Cour peut renvoyer l'affaire à l'avocat des enfants.

ACCORDS DE COMMUNICATION**Parties à l'accord de communication**

212 (1) Afin de faciliter la communication ou de maintenir une relation, un accord de communication peut être conclu entre, d'une part, un parent adoptif d'un enfant ou une personne auprès de qui une société ou un titulaire de permis a placé ou compte placer un enfant en vue de son adoption et, d'autre part, l'une ou l'autre des personnes suivantes :

1. Un parent de naissance, un membre de la parenté de naissance de l'enfant ou un frère ou une sœur de naissance.
2. Un parent de famille d'accueil de l'enfant ou une autre personne qui a pris soin de l'enfant ou qui en a eu la garde à un moment quelconque.
3. Un membre de la famille élargie de l'enfant ou de la communauté à laquelle il appartient et avec qui l'enfant entretient une relation importante ou des liens affectifs importants.
4. Le parent adoptif d'un frère ou d'une sœur de naissance de l'enfant ou une personne auprès de qui la société ou le titulaire de permis a placé ou compte placer un frère ou une sœur de naissance de l'enfant en vue de son adoption.
5. Dans le cas d'un enfant inuit, métis ou de Premières Nations :
 - i. une personne visée à la disposition 1, 2, 3 ou 4,
 - ii. un membre des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient et qui peut ne pas avoir entretenu une relation importante ou des liens affectifs importants avec l'enfant dans le passé, mais qui l'aidera à nouer ou à maintenir des liens avec la culture, le patrimoine et les traditions des communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient et à préserver son identité culturelle et les liens qui l'unissent à la communauté.

Date de l'accord

(2) L'accord de communication peut être conclu à tout moment avant qu'une ordonnance d'adoption soit rendue ou par la suite.

Accord prévoyant un processus de règlement des différends

(3) L'accord de communication peut prévoir un processus visant à régler les différends découlant de l'accord ou se rapportant à des questions ayant trait à l'accord.

Opinion et désirs de l'enfant

(4) Avant que l'accord de communication soit conclu, l'opinion et les désirs de l'enfant doivent être pris en considération et il doit être tenu dûment compte de ceux-ci eu égard à l'âge et au degré de maturité de l'enfant.

ORDONNANCES PROVISOIRES**Ordonnance provisoire**

213 (1) Après avoir étudié la déclaration déposée en application du paragraphe 202 (1), le tribunal saisi d'une requête en ordonnance d'adoption prévue au paragraphe 199 (1) ou (2) peut reporter sa décision à une date ultérieure et rendre une ordonnance provisoire dans l'intérêt véritable de l'enfant aux termes de laquelle l'enfant est placé aux soins et sous la garde du requérant pendant une période précise qui ne doit pas dépasser un an.

Conditions

(2) Le tribunal peut assortir l'ordonnance rendue en vertu du paragraphe (1) des conditions qu'il estime appropriées en ce qui concerne :

- a) les aliments et l'éducation de l'enfant;
- b) la surveillance de l'enfant;
- c) les autres questions qu'il estime utiles dans l'intérêt véritable de l'enfant.

Nature de l'ordonnance

(3) L'ordonnance provisoire rendue en vertu du paragraphe (1) n'est pas une ordonnance d'adoption.

Consentement obligatoire

(4) Les articles 180 et 181 (consentement à l'adoption) s'appliquent à l'ordonnance rendue en vertu du paragraphe (1) avec les adaptations nécessaires.

Résidence hors de l'Ontario

(5) Si le requérant établit sa résidence hors de l'Ontario après avoir obtenu l'ordonnance prévue au paragraphe (1), le tribunal peut néanmoins rendre l'ordonnance d'adoption prévue au paragraphe 199 (1) ou (2) si la déclaration déposée en application du paragraphe 202 (1) indique que, de l'avis du directeur ou du directeur local, il serait dans l'intérêt véritable de l'enfant de rendre l'ordonnance.

Ordonnances d'adoption successives

214 L'ordonnance d'adoption prévue au paragraphe 199 (1) ou (2) ou l'ordonnance provisoire de garde prévue au paragraphe 213 (1) peuvent être rendues à l'égard d'une personne qui fait l'objet d'une ordonnance d'adoption antérieure.

APPELS**Appels****Appel : ordonnance d'adoption**

215 (1) Il peut être interjeté appel devant la Cour supérieure de justice de l'ordonnance du tribunal prévue à l'article 199. Peuvent faire appel :

- a) le requérant qui demande qu'une ordonnance d'adoption soit rendue;
- b) le directeur ou le directeur local qui a déposé la déclaration en application du paragraphe 202 (1).

Idem : ordonnance portant sur le consentement

(2) Il peut être interjeté appel devant la Cour supérieure de justice de l'ordonnance du tribunal prévue à l'article 181 selon laquelle il est passé outre à l'obtention du consentement. Peuvent faire appel :

- a) les personnes visées au paragraphe (1) du présent article;
- b) la personne dont le consentement a fait l'objet d'une dispense.

Idem : retrait tardif du consentement

(3) Il peut être interjeté appel devant la Cour supérieure de justice de l'ordonnance du tribunal prévue au paragraphe 182 (1) autorisant le retrait tardif du consentement. Peuvent faire appel :

- a) les personnes visées au paragraphe (1) du présent article;
- b) l'auteur du consentement.

Aucune prorogation du délai

(4) Aucune prorogation du délai d'appel n'est accordée.

Lieu de l'audience

(5) L'appel interjeté en vertu du présent article est entendu dans le comté ou le district où l'ordonnance portée en appel a été rendue.

Huis clos

(6) L'appel interjeté en vertu du présent article est entendu à huis clos.

EFFET DE L'ORDONNANCE D'ADOPTION**Ordonnance définitive**

216 (1) Une ordonnance d'adoption rendue en vertu de l'article 199 est définitive et irrévocable, sous réserve seulement de l'article 215 (appels). Elle ne doit pas être contestée ni révisée par un tribunal au moyen d'une injonction, d'un jugement déclaratoire, d'un bref de *certiorari*, de *mandamus*, de prohibition ou d'*habeas corpus*, ou d'une requête en révision judiciaire.

Validité de l'ordonnance d'adoption : ordonnance ou accord de communication

(2) La conformité ou la non-conformité aux conditions d'une ordonnance de communication ou d'un accord de communication visant un enfant n'a pas pour effet d'invalider une ordonnance d'adoption de l'enfant rendue en vertu de l'article 199.

Statut de l'enfant adopté

217 (1) La définition qui suit s'applique au présent article.

«enfant adopté» S'entend d'une personne qui a été adoptée en Ontario.

Idem

(2) À compter de la date à laquelle est rendue une ordonnance d'adoption et à toutes les fins de la loi :

- a) l'enfant adopté devient l'enfant du parent adoptif et cette personne devient le parent de l'enfant;
- b) l'enfant adopté cesse d'être l'enfant de la personne qui était son parent avant l'ordonnance d'adoption et cette personne cesse d'être son parent, sauf si cette personne est le conjoint du parent adoptif.

Liens de parenté

(3) À toutes fins, les liens de parenté qui unissent toutes les personnes, y compris l'enfant adopté, le parent adoptif, la parenté de celui-ci, le parent avant que soit rendue l'ordonnance d'adoption et la parenté de celui-ci sont établis conformément au paragraphe (2).

Mention dans un testament ou un autre document

(4) Sauf indication contraire, si un testament ou un autre document, fait ou rédigé avant ou après le jour de l'entrée en vigueur du présent paragraphe, que son auteur soit vivant ou non à cette date, fait mention d'une personne, ou d'un groupe ou d'une catégorie de personnes décrites en fonction d'un lien par le sang ou par le mariage avec une autre personne, cette mention est réputée se rapporter à une personne qui répond à cette description par suite d'une adoption ou inclure cette personne.

Champ d'application du présent article

(5) Le présent article s'applique et est réputé s'être toujours appliqué à l'égard d'une adoption prononcée en application d'une loi qui est en vigueur, mais non de façon à porter atteinte à ce qui suit :

- a) un droit de propriété ou un droit de l'enfant adopté qui a été dévolu de façon indéfectible avant la date à laquelle a été rendue l'ordonnance d'adoption;
- b) un droit de propriété ou un droit qui a été dévolu de façon indéfectible avant le jour de l'entrée en vigueur du présent paragraphe.

Exception

(6) Pour les besoins des lois relatives à l'inceste et aux degrés de parenté qui constituent un empêchement au mariage, les paragraphes (2) et (3) n'ont pas pour effet de priver une personne d'un lien de parenté qui aurait existé en l'absence de ces paragraphes.

Adoption faite dans une autre autorité législative

218 L'adoption prononcée conformément à la loi d'une autre autorité législative, avant ou après le jour de l'entrée en vigueur du présent article, a le même effet en Ontario qu'une adoption prononcée sous le régime de la présente partie.

Parent de naissance

219 Si une ordonnance d'adoption a été rendue sous le régime de la présente partie, aucun tribunal ne doit rendre une ordonnance en vertu de la présente partie accordant le droit de visiter l'enfant aux personnes suivantes :

- a) un parent de naissance;
- b) un membre de la famille du parent de naissance.

MAINTIEN DES RELATIONS

Maintien des relations

220 (1) La société fait tous les efforts raisonnables pour aider un enfant à maintenir des relations avec des personnes qui sont bénéfiques et importantes pour lui dans les circonstances suivantes :

- 1. L'enfant a été placé en vue de son adoption par la société et celle-ci a décidé de ne pas compléter les formalités de l'adoption par la personne auprès de qui l'enfant était placé.
- 2. L'enfant est renvoyé aux soins d'une société après qu'une ordonnance d'adoption a été rendue.

Ordonnance ou accord de communication ou ordonnance de visite

(2) Pour l'application du paragraphe (1), en plus de ce qui est permis en vertu du paragraphe 105 (9), la société :

- a) facilite les contacts ou la communication prévus dans une ordonnance de communication existante ou un accord de communication existant à l'égard de l'enfant et des personnes qui font l'objet de l'ordonnance ou qui sont parties à l'accord, selon le cas;
- b) étudie la question de savoir s'il y a lieu de demander, par voie de requête, qu'une ordonnance de visite soit rendue sous le régime de la partie V (Protection de l'enfance) à l'égard de l'enfant et des personnes concernés.

Maintien en vigueur des ordonnances de communication existantes

(3) Il est entendu que, dans les circonstances visées à la disposition 1 ou 2 du paragraphe (1), une ordonnance de communication existante demeure en vigueur jusqu'à ce qu'elle soit modifiée ou révoquée.

DOSSIERS — CONFIDENTIALITÉ ET DIVULGATION

Parent informé

221 À la demande d'une personne dont le consentement était exigé en application de l'alinéa 180 (2) a) ou de l'alinéa 137 (2) a) de l'ancienne loi et qui a donné ce consentement ou dont le consentement a fait l'objet d'une dispense, la société ou le titulaire de permis qui a placé l'enfant en vue de son adoption informe cette personne si une ordonnance d'adoption a été rendue à l'égard de l'enfant.

Documents du tribunal

222 (1) La définition qui suit s'applique au présent article.

«tribunal» S'entend en outre de la Cour supérieure de justice.

Obligation de sceller les documents

(2) Sous réserve des paragraphes (3) et 224 (2), les documents utilisés dans le cadre d'une requête en ordonnance d'adoption présentée sous le régime de la présente partie ou de la partie VII (Adoption) de l'ancienne loi sont scellés avec une copie certifiée conforme de l'ordonnance originale et déposés au greffe du tribunal par l'officier de justice compétent. Ils ne doivent pas être ouverts pour examen, sauf sur ordonnance du tribunal.

Transmission de l'ordonnance

(3) Dans les 30 jours qui suivent le jour où une ordonnance d'adoption est rendue sous le régime de la présente partie, l'officier de justice compétent fait faire un nombre suffisant de copies certifiées conformes de l'ordonnance sous le sceau de celui qui les certifie. Il fournit ce qui suit :

- a) l'original de l'ordonnance au parent adoptif;
- b) une copie certifiée conforme au registraire général de l'état civil au sens de la *Loi sur les statistiques de l'état civil* ou, si l'enfant adopté est né hors de l'Ontario, deux copies certifiées conformes;
- c) si l'enfant adopté est inscrit ou a le droit de l'être en vertu de la *Loi sur les Indiens* (Canada), une copie certifiée conforme au registraire au sens de cette loi;
- d) une copie certifiée conforme aux autres personnes prescrites.

Autres dossiers du tribunal

(4) Sauf ordonnance contraire du tribunal, seul le tribunal peut examiner les renseignements identificatoires qui proviennent des dossiers des personnes suivantes et qui figurent dans un dossier du tribunal ayant trait à la révision judiciaire d'une décision rendue ou prise par l'une d'entre elles :

- 1. Un dépositaire désigné visé à l'article 223.

2. La personne qui, par l'effet d'un règlement pris en vertu de la disposition 18 du paragraphe 346 (1), révisé des décisions concernant les divulgations de renseignements prévues à l'article 224 ou 225 ou entend les appels de ces décisions.

3. Une personne visée au paragraphe 224 (1) ou 225 (1).

Idem

(5) Nul ne doit, sans l'autorisation du tribunal, divulguer les renseignements identificatoires visés au paragraphe (4) qu'il a obtenus à partir du dossier du tribunal.

Définition

(6) La définition qui suit s'applique aux paragraphes (4) et (5).

«renseignements identificatoires» Renseignements dont la divulgation, isolément ou avec d'autres renseignements, révélera dans les circonstances l'identité de la personne à laquelle ils ont trait.

Désignation de dépositaires de renseignements

223 (1) Le lieutenant-gouverneur en conseil peut, par règlement, désigner une ou plusieurs personnes pour agir à titre de dépositaires de renseignements ayant trait aux adoptions. Il peut assujettir la désignation aux conditions et restrictions qu'il juge appropriées.

Pouvoirs et fonctions

(2) Le dépositaire désigné peut exercer les pouvoirs et doit exercer les fonctions qui sont prescrits relativement aux renseignements qui lui sont fournis en vertu de la présente loi.

Idem : divulgation de renseignements

(3) Le dépositaire désigné peut exercer les autres pouvoirs et doit exercer les autres fonctions qui sont prescrits à une fin liée à la divulgation de renseignements ayant trait aux adoptions, y compris effectuer des recherches à la demande de personnes et dans les circonstances prescrites.

Ententes

(4) Le ministre peut conclure des ententes avec des dépositaires désignés au sujet des pouvoirs et des fonctions que leur attribue le présent article. Ces ententes peuvent prévoir des versements aux dépositaires désignés.

Divulgation au dépositaire désigné

224 (1) Dans les circonstances prescrites, le ministre, le registraire général de l'état civil au sens de la *Loi sur les statistiques de l'état civil*, une société, un titulaire de permis et les autres personnes prescrites donnent au dépositaire désigné visé à l'article 223 les renseignements ayant trait aux adoptions qui sont prescrits.

Idem : ordonnances d'adoption

(2) Dans les circonstances prescrites, le tribunal donne au dépositaire désigné une copie certifiée conforme des ordonnances d'adoption rendues sous le régime de la présente partie ainsi que les autres documents prescrits.

Divulgation à d'autres personnes

Par le ministre

225 (1) Le ministre donne les renseignements ayant trait aux adoptions qui sont prescrits aux personnes prescrites et dans les circonstances prescrites.

Par une société

(2) La société donne les renseignements ayant trait aux adoptions qui sont prescrits aux personnes prescrites et dans les circonstances prescrites.

Par un titulaire de permis

(3) Le titulaire de permis donne les renseignements ayant trait aux adoptions qui sont prescrits aux personnes prescrites et dans les circonstances prescrites.

Par un dépositaire

(4) Le dépositaire désigné visé à l'article 223 donne les renseignements ayant trait aux adoptions qui sont prescrits aux personnes prescrites et dans les circonstances prescrites.

Portée

226 Les articles 224 et 225 s'appliquent à l'égard des renseignements ayant trait à une adoption quelle que soit la date de l'ordonnance d'adoption.

CARACTÈRE CONFIDENTIEL DES DOSSIERS D'ADOPTION

Caractère confidentiel des renseignements sur les adoptions

227 (1) Malgré toute autre loi, une fois qu'une ordonnance d'adoption est rendue, nul ne doit examiner, retrancher, modifier ni divulguer les renseignements ayant trait à l'adoption que conserve le ministère, une société, un titulaire de permis ou un dépositaire désigné visé à l'article 223, ni autoriser ces actes, sauf si, selon le cas,

- a) le ministère, la société, le titulaire de permis ou le dépositaire désigné, ou leur personnel, doivent accomplir ces actes pour maintenir ou mettre à jour les renseignements;
- b) la présente loi ou les règlements l'autorisent.

Pouvoirs des tribunaux judiciaires et administratifs

(2) Le paragraphe (1) n'a pas d'incidence sur le pouvoir que possède un tribunal judiciaire ou administratif de contraindre un témoin à témoigner ou d'ordonner la production d'un écrit.

Champ d'application

(3) Le présent article s'applique quelle que soit la date de l'ordonnance d'adoption.

Vie privée

(4) La *Loi sur l'accès à l'information et la protection de la vie privée* ne s'applique pas aux renseignements ayant trait à une adoption.

INJONCTION

Injonction

228 (1) Sur requête de la société ou du titulaire de permis, la Cour supérieure de justice peut accorder une injonction pour empêcher une personne de contrevenir au paragraphe 191 (2).

Modification ou révocation de l'ordonnance

(2) Sur requête d'une personne, la Cour peut modifier ou révoquer une ordonnance rendue en vertu du paragraphe (1).

PERMIS — EXIGENCES, DÉLIVRANCE ET RENOUVELLEMENT

Permis**Permis exigé**

229 (1) Nul ne doit, à l'exception d'une société, placer un enfant en vue de son adoption si ce n'est en vertu d'un permis à cet effet délivré par le directeur.

Délivrance du permis

(2) Sous réserve de l'article 231, le directeur délivre un permis à quiconque en fait la demande conformément à la présente partie et aux règlements et acquitte les droits prescrits. Il peut assortir le permis de conditions.

Particulier ou agence sans but lucratif seulement

(3) Malgré le paragraphe (2), le permis ne doit être délivré qu'à un particulier ou à une agence sans but lucratif.

Renouvellement du permis

(4) Sous réserve de l'article 232, le directeur renouvelle un permis si le titulaire en fait la demande conformément à la présente partie et aux règlements et acquitte les droits prescrits. Il peut assortir le permis de conditions.

Permis provisoire ou renouvellement

(5) Si l'auteur d'une demande de délivrance de permis ou de renouvellement d'un permis ne satisfait pas à toutes les exigences prévues et a besoin d'un délai pour y satisfaire, le directeur peut, sous réserve des conditions qu'il peut imposer, délivrer un permis provisoire couvrant la période qu'il juge nécessaire pour donner à l'auteur de la demande la possibilité de satisfaire aux exigences.

Incessibilité du permis

(6) Un permis est incessible.

Définition

(7) La définition qui suit s'applique au présent article.

«agence sans but lucratif» Personne morale sans capital-actions qui a des objets de bienfaisance et qui satisfait à l'une des conditions suivantes :

- a) elle est régie par la partie III de la *Loi sur les personnes morales*;

b) elle est constituée sous le régime d'une loi générale ou spéciale du Parlement du Canada.

Conditions du permis

230 (1) Lorsqu'il délivre ou renouvelle un permis, ou à tout autre moment, le directeur peut assortir le permis des conditions qu'il juge appropriées.

Modification des conditions

(2) Le directeur peut, à tout moment, modifier les conditions du permis.

Avis

(3) S'il assortit le permis de conditions ou qu'il modifie des conditions, le directeur en avise le titulaire de permis par écrit.

Contenu de l'avis

(4) L'avis énonce les motifs de l'imposition de conditions ou de la modification de conditions et indique que le titulaire de permis a droit à une audience devant le Tribunal s'il en demande une conformément au paragraphe 234 (1).

Prise d'effet des conditions sur avis

(5) L'imposition ou la modification de conditions prend effet dès que le titulaire de permis reçoit l'avis. Une demande d'audience devant le Tribunal n'a pas pour effet de surseoir à l'imposition ou à la modification des conditions.

Titulaire du permis : obligation de conformité aux conditions

(6) Le titulaire de permis doit se conformer aux conditions dont est assorti le permis.

PERMIS — REFUS ET RÉVOCATION

Motifs de refus

231 Le directeur peut proposer de refuser de délivrer un permis s'il est d'avis que, selon le cas :

- a) l'auteur de la demande ou un de ses employés ou, si l'auteur de la demande est une personne morale, un de ses dirigeants ou administrateurs ne possède pas les qualités requises pour placer un enfant en vue de son adoption de manière responsable et conformément à la présente loi et aux règlements;
- b) la conduite antérieure de toute personne visée à l'alinéa a) offre des motifs raisonnables de croire que le placement d'enfants en vue de leur adoption ne sera pas effectué de manière responsable et conformément à la présente loi et aux règlements;
- c) il existe un motif prescrit comme motif justifiant le refus de délivrer le permis.

Motifs de révocation ou de refus de renouvellement d'un permis

232 Le directeur peut proposer de révoquer un permis ou de refuser de le renouveler s'il est d'avis que, selon le cas :

- a) le titulaire de permis ou un de ses employés ou, si le titulaire de permis est une personne morale, un de ses dirigeants ou administrateurs a contrevenu ou a sciemment permis à quiconque agit sous son contrôle ou sa direction ou est un associé de contrevenir :
 - (i) soit à la présente loi ou aux règlements,
 - (ii) soit à toute autre règle de droit applicable,
 - (iii) soit à une condition du permis;
- b) le placement d'enfants en vue de leur adoption est effectué d'une manière qui nuit à leur santé, à leur sécurité ou à leur bien-être;
- c) la demande de permis ou de renouvellement de permis, ou un rapport ou un document devant être fournis conformément à la présente loi, aux règlements ou à toute autre règle de droit applicable, renferme une fausse déclaration;
- d) un changement au sein du personnel, de la direction ou du conseil d'administration du titulaire de permis fournirait un motif pour refuser de délivrer le permis en vertu de l'alinéa 231 b) si le permis était toujours à l'étape de la demande;
- e) il existe un motif prescrit comme motif justifiant la révocation du permis ou le refus de le renouveler.

PERMIS — AUDIENCE DU TRIBUNAL

Audiences : articles 231 ou 232

Avis du directeur

233 (1) Si le directeur propose de refuser de délivrer un permis en vertu de l'article 231 ou de révoquer un permis ou de refuser de le renouveler en vertu de l'article 232, il en avise l'auteur de la demande ou le titulaire de permis par écrit

Demande d'audience

(2) L'avis prévu au paragraphe (1) doit être motivé et doit préciser que l'auteur de la demande ou le titulaire de permis a droit à une audience devant le Tribunal s'il remet une demande écrite à cet effet au directeur et au Tribunal dans les 10 jours suivant la remise de l'avis.

Pouvoirs du directeur : aucune demande d'audience

(3) Si l'auteur de la demande ou le titulaire de permis ne demande pas une audience en vertu du paragraphe (2), le directeur peut donner suite à ce qu'il propose.

Pouvoirs du Tribunal : audience demandée

(4) Si l'auteur de la demande ou le titulaire de permis demande une audience en vertu du paragraphe (2), le Tribunal tient une audience après en avoir fixé la date et l'heure. Il peut, à l'audience :

- a) soit ordonner au directeur de donner suite à ce qu'il propose;
- b) soit lui ordonner de prendre les autres mesures que le Tribunal juge appropriées, conformément à la présente partie et aux règlements.

Pouvoir discrétionnaire du Tribunal

(5) Lorsqu'il rend une ordonnance en vertu du paragraphe (4), le Tribunal peut substituer son opinion à celle du directeur.

Révision des conditions du permis

234 (1) Le titulaire de permis qui n'est pas satisfait des conditions imposées par le directeur en vertu du paragraphe 229 (2), (4) ou (5) ou de l'article 230 a droit à une audience devant le Tribunal s'il remet une demande écrite à cet effet au directeur et au Tribunal dans les 15 jours suivant la réception du permis.

Pouvoirs du Tribunal

(2) Si le titulaire de permis demande une audience en vertu du paragraphe (1), le Tribunal tient une audience après en avoir fixé la date et l'heure. Il peut, à l'audience :

- a) confirmer tout ou partie des conditions;
- b) annuler tout ou partie des conditions;
- c) imposer les autres conditions qu'il juge appropriées.

Permis valide en attendant le renouvellement

235 Sous réserve de l'article 236, si dans le délai imparti ou, si aucun délai n'est imparti, avant la date d'expiration du permis, le titulaire de permis en demande le renouvellement et acquitte les droits prescrits, le permis est réputé valide :

- a) jusqu'à ce que le renouvellement soit accordé;
- b) jusqu'à l'expiration du délai pour demander une audience, si le titulaire de permis reçoit un avis d'intention du directeur de révoquer le permis ou de ne pas le renouveler et, en cas d'audience, jusqu'au moment où le Tribunal rend sa décision.

Suspension du permis

236 (1) Le directeur peut suspendre le permis en remettant un avis écrit à cet effet au titulaire de permis s'il est d'avis que la manière dont les enfants sont placés en vue de leur adoption par le titulaire de permis constitue un danger immédiat pour la santé, la sécurité ou le bien-être des enfants.

Entrée en vigueur de la suspension

(2) La suspension entre en vigueur dès que le titulaire du permis reçoit l'avis. La demande d'audience devant le Tribunal n'a pas pour effet de surseoir à l'exécution de la suspension.

Application des paragraphes 233 (2) à (4)

(3) En cas de remise d'un avis en vertu du paragraphe (1), les paragraphes 233 (2), (3) et (4) s'appliquent avec les adaptations nécessaires.

Application d'autres dispositions

237 Les articles 266 et 267 s'appliquent, avec les adaptations nécessaires, aux instances introduites devant le Tribunal sous le régime de la présente partie et aux appels de ses ordonnances.

PERMIS — REMISE DU PERMIS ET DES DOSSIERS**Permis et dossiers remis**

238 Si un permis est révoqué ou que son renouvellement est refusé, ou si un titulaire de permis cesse de placer des enfants en vue de leur adoption, le titulaire de permis :

- a) remet promptement son permis au ministre;
- b) remet à une personne prescrite ou à une entité prescrite, dans le délai prescrit, tous les dossiers qui se trouvent en sa possession ou sous son contrôle et qui se rapportent aux enfants à qui des services étaient fournis.

PERMIS — INJONCTIONS

Injonction

239 (1) Le directeur peut présenter une requête à la Cour supérieure de justice pour qu'elle enjoigne au titulaire de permis, par voie d'ordonnance, de ne pas placer d'enfants en vue de leur adoption pendant la suspension de son permis en application de l'article 236.

Modification ou annulation de l'ordonnance

(2) Le titulaire de permis peut présenter une requête au tribunal pour que celui-ci modifie ou annule, par voie d'ordonnance, l'ordonnance visée au paragraphe (1).

INFRACTIONS

Adoption d'un enfant : paiements interdits

240 Nul ne doit, avant ou après la naissance d'un enfant, effectuer ou recevoir, ni accepter d'effectuer ou de recevoir, un paiement ou une récompense de quelque type que ce soit en ce qui concerne, selon le cas :

- a) l'adoption de l'enfant ou son placement en vue d'une adoption;
- b) un consentement à l'adoption de l'enfant en vertu de l'article 180;
- c) des négociations entreprises ou des mesures prises dans le dessein de faire adopter l'enfant.

Sont toutefois exclus :

- d) les dépenses prescrites qu'engage le titulaire de permis ou les dépenses plus élevées qu'approuve le directeur;
- e) les frais de justice et débours normaux;
- f) la subvention que verse une société ou le ministre à un parent adoptif ou à une personne auprès de qui l'enfant est placé en vue de son adoption.

Infractions

241 (1) Sont coupables d'une infraction et passibles, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ et d'un emprisonnement d'au plus deux ans, ou d'une seule de ces peines, quiconque contrevient au paragraphe 183 (1), (2), (3) ou (4) (placement en vue de l'adoption) et l'administrateur, le dirigeant ou l'employé d'une personne morale qui autorise ou permet cette contravention, ou y participe, qu'une ordonnance portant sur l'adoption de l'enfant soit rendue ou non par la suite.

Idem

(2) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ et d'un emprisonnement d'au plus deux ans, ou d'une seule de ces peines, quiconque contrevient au paragraphe 183 (5) (acceptation de recevoir l'enfant).

Idem

(3) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ et d'un emprisonnement d'au plus un an, ou d'une seule de ces peines, quiconque contrevient au paragraphe 191 (2) (ingérence dans la vie de l'enfant).

Idem

(4) Sont coupables d'une infraction et passibles, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$ et d'un emprisonnement d'au plus trois ans, ou d'une seule de ces peines, quiconque contrevient à l'article 240 et l'administrateur, le dirigeant ou l'employé d'une personne morale qui autorise ou permet cette contravention, ou y participe.

Délai de prescription

(5) Aucune instance ne peut être introduite en vertu du paragraphe (1), (2) ou (4) plus de deux ans après le jour où l'infraction a été ou aurait été commise.

Infractions : délivrance de permis

242 (1) Est coupable d'une infraction quiconque, selon le cas :

- a) fournit sciemment de faux renseignements dans une demande de permis ou une demande de renouvellement de permis présentée sous le régime de la présente partie ou dans une déclaration, un rapport ou un état exigé en application de la présente partie ou des règlements à l'égard d'une question se rapportant aux permis;

- b) ne respecte pas une ordonnance rendue ou une directive donnée sous le régime de la présente partie par un tribunal à l'égard d'une question se rapportant aux permis.

Administrateurs, dirigeants et employés

(2) Est coupable d'une infraction l'administrateur, le dirigeant ou l'employé d'une personne morale qui autorise ou permet la commission, par la personne morale, d'une infraction prévue au paragraphe (1) ou y participe.

Peine

(3) Quiconque est déclaré coupable d'une infraction prévue au présent article est passible d'une amende d'au plus 5 000 \$.

PARTIE IX PERMIS D'ÉTABLISSEMENT

Définitions

243 Les définitions qui suivent s'appliquent à la présente partie.

«agence de placement» Personne ou entité, y compris une société, qui place un enfant dans un établissement ou une famille d'accueil. S'entend en outre d'un titulaire de permis. («placing agency»)

«directive» Directive que donne le ministre en vertu de l'article 252. («directive»)

«foyer avec rotation de personnel» Bâtiment, en tout ou en partie, ou groupe de bâtiments où des adultes sont employés pour fournir des soins à des enfants pendant des périodes de service prévues. («staff model residence»)

«foyer de type familial» Bâtiment, en tout ou en partie, ou groupe de bâtiments où résident tout au plus deux adultes qui fournissent des soins continus à des enfants. («parent model residence»)

«foyer pour enfants» S'entend de l'un ou l'autre des foyers suivants où des enfants résident et reçoivent des soins en établissement :

1. Un foyer de type familial comptant cinq enfants ou plus qui n'ont pas de liens de famille.
2. Un foyer avec rotation de personnel comptant trois enfants ou plus qui n'ont pas de liens de famille, y compris un établissement dont une société assure la surveillance ou le fonctionnement ou encore un lieu de détention provisoire ou de garde en milieu fermé ou en milieu ouvert.
3. Tout autre foyer prescrit.

Les lieux suivants ne sont pas des foyers pour enfants :

4. Une maison agréée en vertu de la *Loi sur les hôpitaux privés*.
5. Un centre de garde au sens de la *Loi de 2014 sur la garde d'enfants et la petite enfance*.
6. Un camp de loisirs régi par la *Loi sur la protection et la promotion de la santé*.
7. Un foyer de soins spéciaux au sens de la *Loi sur les foyers de soins spéciaux*.
8. Une école ou une école privée au sens de la *Loi sur l'éducation*.
9. Un centre d'accueil pour séjour de courte durée.
10. Un hôpital qui reçoit une aide financière du gouvernement de l'Ontario.
11. Un foyer de groupe ou un établissement semblable qui reçoit une aide financière du ministre de la Sécurité communautaire et des Services correctionnels, mais qui ne reçoit aucune aide du ministre en vertu de la présente loi.
12. Tout autre lieu prescrit. («children's residence»)

MESURES DE PROTECTION

Permis exigé

244 Nul ne doit faire ce qui suit sans permis à cet effet :

1. Faire fonctionner un foyer pour enfants.
2. Fournir des soins en établissement, directement ou indirectement, dans des lieux qui ne sont pas des foyers pour enfants :
 - i. à trois enfants ou plus qui n'ont pas de liens de famille,
 - ii. dans les circonstances prescrites.

Interdiction : infraction antérieure

245 Nul ne doit faire fonctionner un foyer pour enfants ou fournir des soins en établissement en vertu d'un permis à cet effet s'il a été déclaré coupable d'une infraction prescrite.

Interdiction : laisser entendre qu'une personne est agréée

246 Nul ne doit, expressément ou implicitement, affirmer ou laisser entendre qu'il est agréé pour faire fonctionner un foyer pour enfants ou pour fournir des soins en établissement, à moins d'y être autorisé.

Placements conformes à la Loi et aux règlements

247 Aucun titulaire de permis ne doit placer un enfant dans un foyer pour enfants ou un autre lieu où sont fournis des soins en établissement, si ce n'est conformément à la présente loi, aux règlements et aux directives.

Obligation de conserver un permis

248 (1) Le titulaire de permis conserve une copie de son permis dans les locaux suivants et veille à ce que le permis soit mis à la disposition du public pour consultation :

1. Dans le cas d'un foyer pour enfants, dans le foyer.
2. Dans le cas de tout autre lieu où sont fournis des soins en établissement en vertu d'un permis à cet effet, dans ses locaux commerciaux ou dans les autres locaux prescrits.

Obligation d'afficher certains renseignements

(2) Le titulaire de permis affiche les renseignements prescrits dans un endroit bien en vue au foyer pour enfants ou dans un autre lieu où sont fournis des soins en établissement en vertu d'un permis à cet effet.

Obligation de fournir un permis et d'autres renseignements

249 (1) Avant de placer un enfant dans un foyer pour enfants ou dans un autre lieu où sont fournis des soins en établissement en vertu d'un permis à cet effet, le titulaire de permis donne ce qui suit à l'agence de placement, si celle-ci n'est pas le titulaire de permis, ou à la personne qui place l'enfant :

1. Une copie du permis autorisant le fonctionnement du foyer pour enfants ou la prestation de soins en établissement, selon le cas.
2. Tout autre renseignement prescrit.

Dossier de conformité

(2) Le titulaire de permis crée et conserve un dossier de sa conformité au paragraphe (1) :

- a) dans le cas d'un foyer pour enfants, dans le foyer;
- b) dans le cas de tout autre lieu où sont fournis des soins en établissement en vertu d'un permis à cet effet, dans ses locaux commerciaux ou dans les autres locaux prescrits.

Signalement de certains faits au directeur

250 (1) La personne prescrite qui, dans le cadre de son emploi, apprend qu'il y a des motifs raisonnables de soupçonner l'existence d'un danger immédiat pour la santé, la sécurité ou le bien-être d'un enfant placé dans un foyer pour enfants ou dans un autre lieu où sont fournis des soins en établissement en vertu d'un permis à cet effet signale immédiatement ses soupçons et les renseignements sur lesquels ils sont fondés au directeur.

Inspection

(2) Si des soupçons lui sont signalés en application du paragraphe (1), le directeur fait effectuer une inspection ou mener une enquête par un inspecteur en vue d'assurer la conformité à la présente loi, aux règlements et aux directives.

Secret professionnel de l'avocat

(3) Le présent article n'a aucune incidence sur le secret professionnel de l'avocat.

Obligation de déclaration

(4) Le présent article n'a aucune incidence sur l'obligation de déclarer des soupçons prévue à l'article 125.

Exemption par un directeur

251 Le directeur peut, dans les circonstances prescrites, soustraire les personnes et lieux suivants à l'application de toute disposition de la présente partie, des règlements pris en vertu de celle-ci ou d'une directive pendant la période et sous réserve des conditions qu'il précise :

1. Un lieu ou une catégorie de lieux où sont fournis des soins en établissement en vertu d'un permis à cet effet.

2. Une personne ou une catégorie de personnes qui fournissent des soins en établissement en vertu d'un permis à cet effet ou qui présentent une demande de permis en ce sens.

Directives du ministre

252 (1) Le ministre peut donner des directives aux titulaires de permis à l'égard de toute question prescrite.

Caractère contraignant des directives

(2) Le titulaire de permis doit se conformer aux directives que lui donne le ministre en vertu du présent article.

Portée générale ou particulière

(3) Les directives peuvent avoir une portée générale ou particulière.

Primauté du droit

(4) Il est entendu que, en cas d'incompatibilité entre une directive donnée en vertu du présent article et une disposition de toute loi applicable ou règle de toute loi applicable, la disposition ou la règle l'emporte.

Mise à disposition du public

(5) Le ministre met chaque directive donnée en vertu du présent article à la disposition du public.

Non-application de la Loi de 2006 sur la législation

(6) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux directives données en vertu du présent article.

Publication de renseignements par le ministre

253 (1) Le ministre peut publier les renseignements suivants à l'égard des permis et des demandes de permis :

1. Le nom du titulaire de permis et les coordonnées prescrites.
2. Le nom du foyer pour enfants ou du lieu où sont fournis des soins en établissement.
3. Les conditions dont le permis est éventuellement assorti en vertu de l'article 255.
4. La durée du permis précisée en vertu de l'article 256.
5. La catégorie éventuellement attribuée au permis en vertu de l'article 258.
6. Le nombre maximal d'enfants, indiqué sur le permis en application de l'article 259, à qui le titulaire de permis peut fournir des soins en établissement.
7. Les renseignements relatifs aux programmes et services devant être fournis en vertu du permis.
8. Un résumé de chaque intention de refuser de délivrer un permis en vertu de l'article 261, ou de l'article 195 de l'ancienne loi, ou de révoquer ou de refuser de renouveler un permis en vertu de l'article 262, ou de l'article 196 de l'ancienne loi, sauf s'il n'a pas été donné suite au refus ou à la révocation du permis.
9. Un résumé de chaque avis de suspension signifié en vertu de l'article 264, ou de l'article 200 de l'ancienne loi.
10. Les droits qu'exige le titulaire de permis en application de l'article 268 au titre de la prestation de soins en établissement.
11. Un résumé de chaque rapport d'inspection rédigé en vertu de l'article 278.
12. Tout autre renseignement prescrit qui se rapporte aux permis.

Permis non valide

(2) Le pouvoir prévu au paragraphe (1) comprend le pouvoir de publier des renseignements relatifs aux permis qui ne sont plus valides.

Manière

(3) Le ministre peut publier les renseignements de la manière ou sur le support qu'il estime approprié.

PERMIS**Délivrance et renouvellement de permis****Demande**

254 (1) Une personne peut présenter une demande de permis ou de renouvellement d'un permis pour faire fonctionner un foyer pour enfants ou fournir des soins en établissement en remettant les documents et droits suivants au directeur :

- a) une demande rédigée sous une forme approuvée par le ministre;

- b) une attestation, qu'elle doit remplir sous une forme approuvée par le ministre, confirmant qu'il ne lui est pas interdit par l'article 245 de faire fonctionner un foyer pour enfants ou de fournir des soins en établissement en vertu d'un permis à cet effet;
- c) tout autre renseignement ou document précisé par le ministre;
- d) les droits prescrits.

Exigences supplémentaires

(2) L'auteur d'une demande de permis ou de renouvellement d'un permis doit, sauf s'il retire sa demande, se conformer aux autres exigences prescrites et aux directives qui se rapportent au processus de demande.

Directeur : obligation de délivrance ou de renouvellement d'un permis

(3) Le directeur doit délivrer ou renouveler un permis si l'auteur de la demande a présenté sa demande conformément aux paragraphes (1) et (2), sauf dans les cas suivants :

- a) le directeur a l'intention de refuser de le faire conformément à l'article 261 ou 262;
- b) l'auteur de la demande a moins de 18 ans, est une société de personnes ou est une association de personnes.

Incessibilité du permis

(4) Le permis est incessible.

Conditions du permis

255 (1) Lorsqu'il délivre ou renouvelle un permis, ou à tout autre moment, le directeur peut assortir le permis des conditions qu'il juge appropriées.

Modification des conditions

(2) Le directeur peut, à tout moment, modifier les conditions d'un permis.

Avis

(3) S'il assortit le permis de conditions ou qu'il modifie des conditions, le directeur en avise le titulaire de permis par écrit.

Contenu de l'avis

(4) L'avis énonce les motifs de l'imposition de conditions ou de la modification de conditions et indique que le titulaire de permis a droit à une audience devant le Tribunal s'il en demande une conformément au paragraphe 265 (2).

Prise d'effet des conditions sur avis

(5) L'imposition ou la modification de conditions prend effet dès que le titulaire de permis reçoit l'avis. Une demande d'audience devant le Tribunal n'a pas pour effet de surseoir à l'imposition ou à la modification des conditions.

Titulaire du permis : obligation de conformité aux conditions

(6) Le titulaire de permis doit se conformer aux conditions dont est assorti le permis.

Durée du permis

256 (1) Le permis est délivré ou renouvelé :

- a) pour la durée précisée par le directeur conformément aux règlements;
- b) à défaut de règlement régissant la durée, pour la durée précisée par le directeur qui ne dépasse pas un an.

Expiration

(2) Le permis expire à la fin de la durée précisée, sauf s'il est réputé demeurer en vigueur en application de l'article 257.

Révocation pour un motif suffisant

(3) Le présent article n'a pas pour effet d'empêcher qu'un permis soit révoqué ou suspendu.

Validité du permis en attendant son renouvellement

257 Sous réserve d'une suspension prononcée en vertu de l'article 264, si le titulaire d'un permis en a demandé le renouvellement et a acquitté les droits prescrits avant l'expiration du permis, le permis est réputé demeurer en vigueur :

- a) jusqu'à ce que le renouvellement soit accordé;
- b) jusqu'à ce qu'expire le délai prévu pour demander une audience devant le Tribunal, si le titulaire de permis reçoit un avis indiquant que le directeur a l'intention de révoquer ou de refuser de renouveler le permis en vertu de l'article 262, et, si une audience est demandée, jusqu'à ce que le Tribunal rende sa décision.

Catégorie de permis

258 Le directeur peut attribuer une catégorie à un permis conformément aux règlements :

- a) à la délivrance ou au renouvellement du permis;
- b) à tout autre moment, si les règlements l'y autorisent.

Nombre maximal d'enfants

259 (1) Lorsqu'il délivre ou renouvelle un permis, le directeur peut indiquer sur le permis le nombre maximal d'enfants à qui le titulaire de permis peut fournir des soins en établissement dans le foyer pour enfants ou dans le lieu où de tels soins sont fournis.

Modification du nombre maximal d'enfants

(2) Le directeur peut à tout moment, moyennant un préavis raisonnable dans les circonstances donné au titulaire de permis, modifier le nombre maximal d'enfants indiqué sur le permis.

Titulaire de permis : obligation de conformité au nombre maximal d'enfants

(3) Le titulaire de permis ne doit pas admettre dans le foyer pour enfants ou dans l'autre lieu où sont fournis des soins en établissement un nombre d'enfants supérieur au nombre maximal indiqué sur le permis, sauf si l'admission est approuvée par le directeur pour une période précisée.

Appel de la catégorie ou du nombre maximal

260 Si les règlements l'y autorisent, le titulaire de permis peut, conformément aux règlements :

- a) demander que le Tribunal examine :
 - (i) soit la catégorie attribuée à un permis en vertu de l'article 258,
 - (ii) soit le nombre maximal d'enfants indiqué sur un permis en vertu de l'article 259;
- b) interjeter appel de la décision du Tribunal devant la Cour divisionnaire.

Refus et révocations**Intention de refuser de délivrer un permis**

261 Le directeur peut avoir l'intention de refuser de délivrer un permis si, à son avis, un des cas suivants se présente :

- a) l'auteur de la demande ou un de ses employés ou, si l'auteur de la demande est une personne morale, un de ses dirigeants ou administrateurs, n'a pas les compétences voulues pour faire fonctionner un foyer pour enfants ou pour fournir des soins en établissement, selon le cas, de manière responsable conformément à la présente loi, aux règlements ou à toute autre loi applicable;
- b) la conduite antérieure d'une personne mentionnée à l'alinéa a) offre des motifs raisonnables de croire que le foyer pour enfants ne fonctionnera pas de manière responsable conformément à la présente loi, aux règlements ou à toute autre loi applicable ou que les soins en établissement ne seront pas fournis d'une telle manière;
- c) les locaux où l'auteur de la demande a l'intention de faire fonctionner le foyer pour enfants ou de fournir des soins en établissement ne sont pas conformes aux exigences de la présente partie, des règlements ou de toute autre loi applicable;
- d) une personne a fait une fausse déclaration dans la demande de permis ou dans un rapport, un document ou d'autres renseignements qui doivent être fournis en application de la présente loi, des règlements ou de toute autre loi applicable;
- e) un permis détenu par l'auteur de la demande a été révoqué ou le renouvellement d'un tel permis a été refusé et il n'y a pas eu de changement important dans la situation de l'auteur de la demande;
- f) un motif prescrit justifie le refus de délivrer un permis.

Intention de révoquer le permis ou de refuser de le renouveler

262 Le directeur peut avoir l'intention de révoquer ou de refuser de renouveler un permis si, à son avis, un des cas suivants se présente :

- a) le titulaire de permis ou un de ses employés ou, si le titulaire de permis est une personne morale, un de ses dirigeants ou administrateurs, a contrevenu ou a sciemment permis à un préposé ou à un associé de contrevenir, selon le cas :
 - (i) à la présente loi ou aux règlements,
 - (ii) à toute autre loi applicable,
 - (iii) à une condition du permis;

- b) la conduite d'une personne mentionnée à l'alinéa a) offre des motifs raisonnables de croire que, selon le cas :
 - (i) la personne n'a pas les compétences voulues pour faire fonctionner un foyer pour enfants ou pour fournir des soins en établissement de manière responsable conformément à la présente loi, aux règlements ou à toute autre loi applicable;
 - (ii) le foyer pour enfants ou l'autre lieu où sont fournis des soins en établissement ne fonctionne pas ou ne fonctionnera pas conformément à la présente loi, aux règlements ou à toute autre loi applicable;
- c) les locaux où se trouve le foyer pour enfants ou où sont fournis les soins en établissement ne sont pas conformes aux exigences de la présente partie, des règlements ou de toute autre loi applicable;
- d) le fonctionnement du foyer pour enfants ou la prestation de soins en établissement est assuré d'une manière préjudiciable à la santé, à la sécurité ou au bien-être des enfants;
- e) une personne a fait une fausse déclaration dans la demande de permis ou de renouvellement de permis, ou dans un rapport ou un document qui doit être fourni en application de la présente loi, des règlements ou de toute autre loi applicable;
- f) un changement au sein du personnel, de la direction ou du conseil d'administration du titulaire de permis constituerait un motif prévu à l'alinéa 261 b) pour refuser de délivrer le permis, si celui-ci était toujours à l'étape de la demande;
- g) un motif prescrit justifie le refus de renouveler le permis ou sa révocation.

Avis d'intention

263 (1) Le directeur avise par écrit l'auteur de la demande ou le titulaire de permis, selon le cas, de son intention :

- a) soit de refuser de délivrer le permis en vertu de l'article 261;
- b) soit de révoquer le permis ou de refuser de le renouveler en vertu de l'article 262.

Contenu de l'avis

(2) L'avis d'intention énonce les motifs de la mesure envisagée et indique que l'auteur de la demande ou le titulaire de permis a droit à une audience devant le Tribunal s'il en demande une conformément au paragraphe 265 (2).

Suspension

264 (1) Le directeur peut suspendre un permis si, à son avis, la manière dont le foyer pour enfants fonctionne ou dont les soins en établissement sont fournis constitue un danger immédiat pour la santé, la sécurité ou le bien-être des enfants.

Avis

(2) Le directeur avise le titulaire de permis par écrit de la suspension.

Contenu de l'avis

(3) L'avis énonce les motifs de la suspension du permis et indique que le titulaire de permis a droit à une audience devant le Tribunal s'il en demande une conformément au paragraphe 265 (2).

Prise d'effet de la suspension sur avis

(4) La suspension du permis prend effet dès que le titulaire de permis reçoit l'avis prévu. Une demande d'audience devant le Tribunal n'a pas pour effet de surseoir à la suspension du permis.

Demande interdite

(5) La personne dont le permis est suspendu ne peut présenter une demande de permis au directeur pendant la suspension.

AUDIENCES DEVANT LE TRIBUNAL

Audiences devant le Tribunal

265 (1) L'auteur d'une demande ou le titulaire de permis à qui le directeur donne l'un ou l'autre des avis suivants peut demander une audience devant le Tribunal conformément au paragraphe (2) :

1. Un avis d'intention de refuser de délivrer un permis en vertu de l'article 261.
2. Un avis d'intention de révoquer ou de refuser de renouveler un permis en vertu de l'article 262.
3. Un avis visant à assortir un permis de conditions ou à modifier des conditions en vertu de l'article 255.
4. Un avis visant à suspendre un permis en vertu de l'article 264.

Demande d'audience

(2) L'auteur de la demande ou le titulaire de permis peut demander une audience en donnant un avis écrit à cet effet au directeur qui a donné l'avis prévu au paragraphe (1) et au Tribunal :

- a) dans le cas d'un avis visant à assortir un permis de conditions ou à modifier des conditions, dans les 15 jours après que l'avis a été donné à la personne;
- b) dans le cas de tous les autres avis, dans les 10 jours après que l'avis a été donné à la personne.

Aucune demande d'audience

(3) Si l'auteur de la demande ou le titulaire de permis à qui est donné un avis d'intention de refuser de délivrer un permis, de révoquer un permis ou de refuser de renouveler un permis ne demande pas d'audience conformément au paragraphe (2), le directeur peut donner suite à son intention.

Audience

(4) Si l'auteur de la demande ou le titulaire de permis demande une audience conformément au paragraphe (2), le Tribunal tient une audience après en avoir fixé la date et l'heure.

Pouvoirs du Tribunal

(5) Après avoir tenu l'audience, le Tribunal peut, par ordonnance :

- a) dans le cas où le directeur a l'intention de refuser de délivrer un permis, de révoquer un permis ou de refuser de renouveler un permis :
 - (i) soit enjoindre au directeur de donner suite à son intention,
 - (ii) soit enjoindre au directeur de prendre les mesures que le Tribunal juge appropriées, conformément à la présente partie et aux règlements;
- b) dans le cas où le directeur assortit un permis de conditions ou modifie des conditions :
 - (i) soit confirmer tout ou partie des conditions,
 - (ii) soit annuler tout ou partie des conditions,
 - (iii) soit imposer les conditions qu'il juge appropriées;
- c) dans le cas où un permis est suspendu :
 - (i) soit confirmer la suspension,
 - (ii) soit enjoindre au directeur de prendre les mesures que le Tribunal juge appropriées, conformément à la présente partie et aux règlements.

Pouvoir discrétionnaire du Tribunal

(6) Lorsqu'il rend l'ordonnance prévue à l'alinéa (5) a) ou c), le Tribunal peut substituer son opinion à celle du directeur.

Règles applicables aux instances

Parties

266 (1) Les personnes suivantes sont parties à l'instance introduite sous le régime de la présente partie :

1. L'auteur de la demande ou le titulaire de permis qui demande l'audience.
2. Le directeur.
3. Les autres personnes que précise le Tribunal.

Interdiction de participer pour certains membres

(2) Le membre du Tribunal qui a déjà pris part, avant l'audience, à une enquête ou à une étude relative à la question en litige qui se rapporte à l'auteur de la demande ou au titulaire de permis ne doit pas participer à l'audience.

Aucune discussion

(3) Le membre du Tribunal qui prend part à une audience ne doit pas communiquer au sujet de la question en litige avec qui que ce soit, sauf un autre membre, un avocat qui n'est pas l'avocat d'une partie ou un employé du Tribunal, si ce n'est après en avoir avisé toutes les parties et leur avoir fourni l'occasion de participer.

Conseils juridiques de personnes indépendantes

(4) Le Tribunal peut demander des conseils juridiques auprès de personnes indépendantes au sujet de la question en litige. Dans ce cas, il doit divulguer la teneur des conseils reçus aux parties pour leur permettre d'y répondre.

Examen de la preuve documentaire

(5) Une partie à une instance introduite sous le régime de la présente partie doit avoir la possibilité d'examiner, avant l'audience, la preuve écrite ou documentaire qui y sera produite et le rapport dont le contenu y sera présenté en preuve.

Processus décisionnel limité aux membres présents à toute l'audience

(6) Aucun membre du Tribunal ne doit prendre part à la décision que le Tribunal rend sous le régime de la présente partie s'il n'a pas assisté à toute l'audience et entendu la preuve et les plaidoiries des parties.

Processus décisionnel assujéti à la participation de tous les membres présents à l'audience

(7) Sauf si les parties y consentent, le Tribunal ne doit pas rendre de décision sous le régime de la présente partie, à moins que tous les membres présents à l'audience n'y prennent part.

Décision définitive du Tribunal sous 90 jours

(8) Malgré l'article 21 de la *Loi sur l'exercice des compétences légales*, le Tribunal doit rendre une décision définitive et en aviser les parties dans les 90 jours qui suivent le jour où il a reçu la demande d'audience de l'auteur de la demande ou du titulaire de permis en vertu du paragraphe 265 (2) de la présente loi.

APPELS**Appel de la décision du Tribunal**

267 (1) Toute partie à une audience devant le Tribunal tenue sous le régime de la présente partie peut interjeter appel de la décision du Tribunal devant la Cour divisionnaire.

Dossier déposé devant le tribunal

(2) Si un avis d'appel est signifié en vertu du présent article, le Tribunal dépose promptement auprès du tribunal le dossier de l'instance à la suite de laquelle a été rendue la décision portée en appel.

Droit d'audience du ministre

(3) Le ministre, représenté notamment par un avocat, a le droit d'être entendu aux débats de l'appel en vertu du présent article.

DROITS EXIGÉS PAR LE TITULAIRE DE PERMIS**Droits**

268 (1) Le titulaire de permis exige les droits indiqués dans les règlements ou calculés conformément à ceux-ci au titre de la prestation de soins en établissement en vertu d'un permis à cet effet.

Exemption

(2) Un règlement peut, d'une part, soustraire un titulaire de permis ou une catégorie de titulaires de permis à l'application du paragraphe (1) et, d'autre part, prescrire les conditions et les circonstances applicables à une telle exemption.

CESSATION DES ACTIVITÉS**Remise du permis et des dossiers**

269 En cas de révocation ou de refus de renouvellement de son permis, ou s'il cesse de faire fonctionner un foyer pour enfants ou de fournir des soins en établissement, le titulaire de permis :

- a) remet promptement son permis au ministre;
- b) remet à une personne ou entité prescrite, dans le délai prescrit, tous les dossiers qui se trouvent en sa possession ou sous son contrôle et qui se rapportent aux enfants à qui des services étaient fournis.

Avis à l'agence de placement ou à une autre personne : retrait d'enfants

270 En cas de révocation, de suspension ou de refus de renouvellement d'un permis, ou si le titulaire de permis cesse de faire fonctionner un foyer pour enfants ou de fournir des soins en établissement :

- a) d'une part, le titulaire de permis avise promptement par écrit chaque agence de placement ou personne ayant un enfant placé dans le foyer pour enfants ou l'autre lieu où sont fournis des soins en établissement de la révocation du permis, de sa suspension, du refus de le renouveler ou de la cessation des activités;
- b) d'autre part, l'agence de placement ou la personne qui a placé un enfant prend des dispositions pour retirer l'enfant du foyer ou du lieu aussitôt que possible, compte tenu de l'intérêt véritable de l'enfant et le ministre peut l'aider à trouver un autre lieu de placement pour l'enfant.

OCCUPATION PAR LE MINISTRE ET INJONCTIONS**Ordre d'occupation**

271 (1) Si l'avis d'intention du directeur de révoquer un permis ou de refuser de le renouveler, prévu à l'alinéa 263 (1) b), ou l'avis de suspension, prévu au paragraphe 264 (2), a été donné au titulaire de permis et que la question n'a pas encore été définitivement réglée, le ministre peut, sans préavis, présenter une requête à la Cour supérieure de justice pour qu'elle rende une ordonnance aux fins suivantes :

- a) autoriser le ministre, ou une personne qu'il a nommée, en attendant l'issue de l'instance et jusqu'à ce que d'autres locaux d'hébergement aient été trouvés à l'intention des enfants :
 - (i) soit à occuper et à faire fonctionner le foyer pour enfants ou les locaux où sont fournis les soins en établissement;
 - (ii) soit à fournir, directement ou indirectement, des soins en établissement;
- b) enjoindre à un agent de la paix d'aider le ministre, ou une personne qu'il a nommée, dans la mesure nécessaire, à occuper les locaux en application du sous-alinéa a) (i).

Ordonnance de la Cour

(2) La Cour peut rendre l'ordonnance prévue au paragraphe (1) si elle est convaincue que la santé, la sécurité ou le bien-être des enfants l'exige.

Gestion provisoire

(3) Si l'ordonnance prévue au sous-alinéa (1) a) (i) a été rendue, le ministre, ou la personne qu'il a nommée, peut, malgré les articles 25 et 39 de la *Loi sur l'expropriation*, occuper immédiatement les locaux et les faire fonctionner ou faire en sorte que quelqu'un les occupe et les fasse fonctionner pendant une période ne dépassant pas six mois.

Injonction

272 (1) Le directeur peut présenter une requête à la Cour supérieure de justice pour qu'elle enjoigne à quelqu'un :

- a) soit de ne pas contrevenir à l'article 244 (permis exigé);
- b) soit de ne pas faire fonctionner un foyer pour enfants ou de ne pas fournir des soins en établissement pendant que le permis est suspendu en vertu de l'article 264.

Modification ou révocation d'une ordonnance

(2) Quiconque peut présenter une requête au tribunal pour qu'il modifie ou révoque l'ordonnance prévue au paragraphe (1).

INSPECTIONS : DÉLIVRANCE DE PERMIS D'ÉTABLISSEMENT

Nomination d'inspecteurs

273 (1) Le ministre peut nommer des inspecteurs pour l'application de la présente partie.

Directeur en tant qu'inspecteur

(2) Le directeur est d'office inspecteur.

Pouvoirs et fonctions

(3) L'inspecteur exerce les pouvoirs et fonctions énoncés dans la présente partie de même que les autres pouvoirs et fonctions prescrits.

Limites

(4) Le ministre peut limiter les pouvoirs d'entrée et d'inspection de l'inspecteur à des locaux déterminés.

Attestation de nomination

(5) Le ministre délivre à chaque inspecteur une attestation de sa nomination que l'inspecteur doit présenter, sur demande, lorsqu'il agit dans l'exercice de ses fonctions.

Objet de l'inspection

274 L'inspecteur effectue des inspections afin de s'assurer de la conformité à la présente loi, aux règlements et aux directives.

Inspections sans mandat

275 L'inspecteur peut, à toute heure raisonnable et sans mandat ou préavis, entrer dans les locaux suivants et les inspecter :

- a) les locaux commerciaux d'un titulaire de permis;
- b) les locaux d'un foyer pour enfants;
- c) les locaux, à l'exception d'un foyer pour enfants, où sont fournis des soins en établissement en vertu d'un permis à cet effet;
- d) les locaux où il a des motifs raisonnables de soupçonner que des soins en établissement sont fournis sans permis à cet effet, contrairement aux exigences de la présente partie.

Pouvoirs de l'inspecteur

276 (1) Dans le cadre de son inspection, l'inspecteur peut :

- a) examiner les services fournis;

- b) examiner des documents ou des choses qui se rapportent à l'inspection;
- c) demander formellement la production, pour inspection, de documents ou de choses qui se rapportent à l'inspection, y compris des documents ou des choses qui ne sont pas conservés dans les locaux;
- d) après avoir donné un récépissé écrit à cet effet, enlever, pour examen ou copie, des documents ou des choses qui se rapportent à l'inspection;
- e) afin de produire un document sous une forme lisible, recourir aux dispositifs ou systèmes de stockage, de traitement ou de récupération des données qui sont utilisés habituellement pour exercer des activités commerciales dans les locaux;
- f) prendre des photos ou des films ou procéder à tout autre type d'enregistrement qui se rapporte à l'inspection, y compris d'enfants ou d'autres personnes dans les locaux, mais seulement d'une manière qui n'intercepte pas les communications privées et qui respecte des attentes raisonnables en matière de vie privée;
- g) interroger des personnes, y compris des enfants, sur toute question qui se rapporte à l'inspection;
- h) faire appel à des experts pour l'aider à effectuer son inspection;
- i) exercer tout autre pouvoir prescrit.

Demande

(2) La demande formelle de production, pour inspection, de documents ou de choses peut être présentée oralement ou par écrit. Elle doit indiquer ce qui suit :

- a) la nature des documents ou choses exigés;
- b) le moment où les documents ou choses doivent être produits.

Production et aide obligatoires

(3) Si l'inspecteur demande formellement la production, pour inspection, de documents ou de choses, la personne qui en a la garde les produit dans les délais fixés dans la demande. Elle doit, si l'inspecteur le lui demande :

- a) fournir l'aide qui est raisonnablement nécessaire pour produire le document ou la chose sous une forme lisible, notamment en recourant à un dispositif ou système de stockage, de traitement ou de récupération des données;
- b) fournir l'aide qui est raisonnablement nécessaire pour fournir une interprétation du document ou de la chose à l'inspecteur.

Droit d'un enfant de refuser d'être interrogé

(4) Malgré l'alinéa (1) g), un enfant peut refuser d'être interrogé par un inspecteur.

Droit d'un enfant de rencontrer l'inspecteur

(5) L'inspecteur rencontre en privé un enfant qui reçoit des soins en établissement dans l'endroit faisant l'objet de l'inspection, si l'enfant demande une telle rencontre.

Pouvoir d'exclure des personnes

(6) L'inspecteur qui interroge une personne en vertu de l'alinéa (1) g) peut exclure des personnes de l'entretien, sauf l'avocat de la personne qu'il interroge.

Restitution

(7) Les documents ou choses qui ont été enlevés pour examen ou copie sont :

- a) mis à la disposition de la personne à qui ils ont été enlevés, à sa demande et aux date, heure et lieu qui lui conviennent et qui conviennent à l'inspecteur;
- b) retournés à la personne dans un délai raisonnable.

Mandat

277 (1) L'inspecteur peut, sans préavis, demander à un juge de lui décerner un mandat en vertu du présent article.

Mandat décerné

(2) Le juge peut décerner un mandat autorisant l'inspecteur qui y est nommé à entrer dans les locaux qui y sont précisés et à exercer l'un ou l'autre des pouvoirs mentionnés au paragraphe 276 (1) s'il est convaincu, sur la foi d'une dénonciation faite sous serment ou d'une affirmation solennelle :

- a) que les locaux sont, selon le cas :
 - (i) les locaux commerciaux d'un titulaire de permis,
 - (ii) un foyer pour enfants,

- (iii) un lieu, autre qu'un foyer pour enfants, où sont fournis des soins en établissement en vertu d'un permis à cet effet,
 - (iv) un lieu où l'inspecteur a des motifs raisonnables de soupçonner que des soins en établissement sont fournis sans permis à cet effet, contrairement aux exigences de la présente partie;
- b) que, selon le cas :
- (i) l'inspecteur s'est vu empêché d'exercer le droit d'entrée prévu à l'article 275 ou un pouvoir prévu au paragraphe 276 (1),
 - (ii) il existe des motifs raisonnables de croire que l'inspecteur se verra empêché d'exercer le droit d'entrée prévu à l'article 275 ou un pouvoir prévu au paragraphe 276 (1).

Logements

(3) Le pouvoir, visé à l'alinéa (2) a), d'entrer dans un local avec mandat ne doit pas être exercé pour entrer dans un local servant de logement, sauf si les conditions suivantes sont réunies :

- a) le juge est informé du fait que le mandat est demandé afin d'autoriser l'entrée dans un logement;
- b) le juge autorise l'entrée de l'inspecteur dans le logement en question.

Aide d'experts

(4) Le mandat peut autoriser des personnes qui possèdent des connaissances particulières, spécialisées ou professionnelles à accompagner l'inspecteur et à l'aider à exécuter le mandat.

Expiration du mandat

(5) Le mandat décerné en vertu du présent article comporte une date d'expiration, qui ne doit pas tomber plus de 30 jours après le jour où le mandat a été décerné.

Prorogation du délai

(6) Un juge peut reporter la date d'expiration du mandat décerné en vertu du présent article d'au plus 30 jours, sur demande sans préavis de l'inspecteur nommé dans le mandat.

Recours à la force

(7) L'inspecteur nommé dans le mandat décerné en vertu du présent article peut recourir à toute la force nécessaire pour exécuter le mandat et peut se faire aider d'agents de la paix.

Heures d'exécution

(8) Sauf indication contraire, le mandat décerné en vertu du présent article ne peut être exécuté qu'entre 8 et 20 heures.

Autres questions

(9) Les paragraphes 276 (2) à (7) s'appliquent, avec les adaptations nécessaires, à l'égard de l'exercice des pouvoirs mentionnés au paragraphe (2) sous l'autorité d'un mandat décerné en vertu du présent article.

Définition

(10) La définition qui suit s'applique au présent article.

«juge» Juge provincial ou juge de paix.

Rapport d'inspection

278 (1) À l'issue de l'inspection, l'inspecteur rédige un rapport d'inspection et en remet une copie aux personnes suivantes :

- a) le directeur;
- b) le titulaire de permis;
- c) toute autre personne prescrite.

Documentation : non-conformité

(2) S'il conclut que le titulaire de permis ne s'est pas conformé à une exigence de la présente loi, aux règlements ou à une directive, l'inspecteur documente la non-conformité dans son rapport d'inspection.

Admissibilité de certains documents

279 Les copies faites en vertu du paragraphe 276 (1) qui se présentent comme étant certifiées conformes aux originaux par l'inspecteur sont admissibles en preuve dans toute instance au même titre que les originaux et ont la même valeur probante que ceux-ci.

INFRACTIONS

Infractions

280 (1) Est coupable d'une infraction quiconque :

- a) contrevient au paragraphe 244 (1) (permis exigé);
- b) contrevient à l'article 245 (interdiction : infraction antérieure);
- c) contrevient à l'article 246 (interdiction : laisser entendre qu'une personne est agréée);
- d) contrevient au paragraphe 259 (3) (titulaire de permis : obligation de conformité au nombre maximal d'enfants);
- e) contrevient à l'alinéa 269 b) (remise des dossiers);
- f) fait en sorte qu'un enfant reçoive des soins dans un foyer pour enfants dont le fonctionnement est assuré par une personne qui n'est pas titulaire d'un permis à cet effet ou dans un autre lieu où sont fournis des soins en établissement par une personne qui doit être titulaire d'un permis à cet effet, mais qui ne l'est pas;
- g) permet, à titre de parent d'un enfant ou de personne légalement tenue de subvenir aux besoins d'un enfant, que cet enfant reçoive des soins dans un foyer pour enfants ou dans un autre lieu visé à l'alinéa f);
- h) ne se conforme pas à une ordonnance ou à une directive rendue ou donnée par un tribunal sous le régime de la présente partie;
- i) contrevient à toute autre disposition de la présente loi ou des règlements prescrite pour l'application du présent paragraphe.

Peine

(2) La personne déclarée coupable d'une infraction prévue au paragraphe (1) est passible :

- a) s'il s'agit d'un particulier, d'une amende d'au plus 1 000 \$ pour chaque journée au cours de laquelle l'infraction se poursuit et d'une peine d'emprisonnement maximale d'un an, ou d'une seule de ces peines;
- b) s'il ne s'agit pas d'un particulier, d'une amende d'au plus 1 000 \$ pour chaque journée au cours de laquelle l'infraction se poursuit.

Infraction : entrave au travail de l'inspecteur, renseignements faux

(3) Est coupable d'une infraction quiconque :

- a) gêne ou entrave le travail de l'inspecteur qui effectue une inspection sous le régime de la présente partie, ou empêche de quelque autre façon un inspecteur d'exercer les pouvoirs ou fonctions qui lui attribue la présente partie;
- b) fournit sciemment de faux renseignements dans une demande présentée sous le régime de la présente partie ou dans une déclaration, un rapport ou un état exigés sous le régime de la présente partie ou en vertu des règlements;
- c) contrevient à une autre disposition de la présente loi ou des règlements prescrite pour l'application du présent paragraphe.

Peine

(4) La personne déclarée coupable d'une infraction prévue au paragraphe (3) est passible d'une amende d'au plus 5 000 \$.

Prescription

(5) Est irrecevable l'instance relative à une infraction prévue au paragraphe (1) ou (3) plus de deux ans après le jour où les preuves de l'infraction ont été portées pour la première fois à la connaissance du directeur ou de l'inspecteur.

Administrateurs, dirigeants et employés

(6) Si une personne morale commet une infraction prévue au présent article, l'administrateur, le dirigeant ou l'employé de la personne morale qui a autorisé ou permis la commission de l'infraction ou y a participé en est également coupable.

**PARTIE X
RENSEIGNEMENTS PERSONNELS**

DÉFINITIONS

Définitions

281 Les définitions qui suivent s'appliquent à la présente partie.

«capable» En mesure de comprendre les renseignements pertinents qui permettent de décider de consentir ou non à la collecte, à l'utilisation ou à la divulgation de renseignements personnels et de saisir les conséquences raisonnablement

prévisibles de la décision de donner, de refuser ou de retirer son consentement. Le terme «capacité» a un sens correspondant. («capable», «capacity»)

«commissaire» Le commissaire à l'information et à la protection de la vie privée nommé en application de la *Loi sur l'accès à l'information et la protection de la vie privée*. («Commissioner»)

«commissaire adjoint» Un commissaire adjoint nommé en application de la *Loi sur l'accès à l'information et la protection de la vie privée*. («Assistant Commissioner»)

«fournisseur de services» S'entend notamment d'un organisme responsable désigné en vertu de l'article 30. («service provider»)

«incapable» S'entend d'une personne qui n'est pas capable. Le terme «incapacité» a un sens correspondant. («incapable», «incapacity»)

«instance» S'entend notamment d'une instance qui est tenue devant un tribunal judiciaire ou administratif, une commission, un juge de paix, un coroner, un comité d'un ordre au sens de la *Loi de 1991 sur les professions de la santé réglementées*, un comité de l'Ordre des travailleurs sociaux et des techniciens en travail social de l'Ontario visé par la *Loi de 1998 sur le travail social et les techniques de travail social*, un arbitre ou un médiateur ou qui est tenue conformément à leurs règles. («proceeding»)

«mandataire spécial» S'entend de quiconque est autorisé sous le régime de la présente partie à donner son consentement, au nom d'un particulier, à la collecte, à l'utilisation ou à la divulgation de renseignements personnels concernant ce particulier, ou à refuser ou à retirer un tel consentement. («substitute decision-maker»)

«pratiques relatives aux renseignements» Les politiques relatives à la collecte, à l'utilisation, à la modification, à la divulgation, à la conservation et à l'élimination de renseignements personnels et aux mesures de précaution et pratiques d'ordre administratif, technique et matériel que le fournisseur de services maintient à l'égard de ces renseignements. («information practices»)

«service» Service ou programme fourni ou financé en vertu de la présente loi ou fourni en vertu d'un permis à cet effet. («service»)

Prépondérance des dispositions relatives à la confidentialité

282 Les paragraphes 87 (8), (9) et (10) et 134 (11) l'emportent sur toute disposition incompatible de la présente partie.

POUVOIRS DU MINISTRE EN MATIÈRE DE COLLECTE, D'UTILISATION ET DE DIVULGATION DE RENSEIGNEMENTS PERSONNELS

Collecte, utilisation et divulgation de renseignements personnels par le ministre

Collecte de renseignements personnels

283 (1) Le ministre peut recueillir, directement ou indirectement, des renseignements personnels à des fins liées aux questions suivantes et les utiliser à ces fins :

1. L'application de la présente loi et des règlements.
2. La vérification de la conformité à la présente loi et aux règlements.
3. La planification, la gestion ou la prestation des services que le ministère fournit ou finance, intégralement ou partiellement, l'affectation de ressources à leur égard, leur évaluation ou leur surveillance, ou la détection, la surveillance et la répression des fraudes liées à ces services ou des cas où des services ou des avantages connexes ont été reçus sans autorisation.
4. L'exercice d'activités de gestion des risques et des erreurs à l'égard des services que le ministère fournit ou finance intégralement ou partiellement.
5. L'exercice d'activités visant à améliorer ou à maintenir la qualité des services que le ministère fournit ou finance intégralement ou partiellement.
6. L'exercice d'activités de recherche et d'analyse qui se rapportent aux enfants et à leur famille, y compris des études longitudinales menées par le ministère ou pour son compte qui se rapportent à ce qui suit :
 - i. un service,
 - ii. la transition des enfants et de leur famille lorsqu'ils passent d'un service à l'autre ou cessent de bénéficier de services, y compris les résultats obtenus,
 - iii. les programmes qui soutiennent l'apprentissage, le développement, la santé et le bien-être des enfants et de leur famille, y compris les programmes fournis ou financés intégralement ou partiellement par le ministère ou un autre ministère du gouvernement de l'Ontario.

Renseignements personnels exigés par le ministre

(2) Le ministre peut exiger des personnes suivantes qu'elles lui divulguent les renseignements personnels qui sont raisonnablement nécessaires aux fins visées au paragraphe (1) :

1. Un fournisseur de services.
2. Toute autre personne prescrite qui possède des renseignements se rapportant à l'une ou l'autre des fins visées au paragraphe (1).

Renseignements autres que des renseignements personnels

(3) Le ministre ne doit pas recueillir, utiliser ou divulguer des renseignements personnels à une fin que d'autres renseignements permettent de réaliser.

Renseignements personnels : limitation à ce qui est raisonnablement nécessaire

(4) Le ministre ne doit pas recueillir, utiliser ou divulguer plus de renseignements personnels qu'il n'est raisonnablement nécessaire pour réaliser la fin visée.

Divulgence à d'autres ministres de la Couronne du chef de l'Ontario

(5) Le ministre et d'autres ministres de la Couronne du chef de l'Ontario prescrits peuvent se divulguer des renseignements personnels et recueillir indirectement de tels renseignements les uns auprès des autres aux fins mentionnées aux dispositions 3 et 6 du paragraphe (1).

Divulgence réputée conforme

(6) Pour l'application de l'alinéa 42 (1) e) de la *Loi sur l'accès à l'information et la protection de la vie privée*, de l'alinéa 32 e) de la *Loi sur l'accès à l'information municipale et la protection de la vie privée* ou de l'alinéa 43 (1) h) de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*, la divulgation de renseignements personnels par une institution ou un dépositaire de renseignements sur la santé, au sens de ces lois, en vertu du paragraphe (2) ou (5) est réputée effectuée à des fins de conformité à la présente loi.

Renseignements personnels : recherche et analyse

(7) La collecte, l'utilisation ou la divulgation de renseignements personnels à des fins de recherche et d'analyse visées à la disposition 6 du paragraphe (1) est assujettie aux exigences et restrictions prescrites.

Avis exigé par le paragraphe 39 (2) de la Loi sur l'accès à l'information et la protection de la vie privée

(8) Si le ministre recueille indirectement des renseignements personnels en vertu du paragraphe (1), l'avis exigé par le paragraphe 39 (2) de la *Loi sur l'accès à l'information et la protection de la vie privée* peut être donné :

- a) soit au moyen d'un avis public affiché sur un site Web du gouvernement de l'Ontario;
- b) soit par un autre mode prescrit.

Renseignements demandés par le ministre**Collecte de renseignements par les fournisseurs de services**

284 (1) Le ministre peut demander qu'un fournisseur de services recueille directement auprès des particuliers auxquels il fournit un service des renseignements, y compris des renseignements personnels, qui sont raisonnablement nécessaires à une fin prescrite qui est compatible avec une fin visée au paragraphe 283 (1). Le fournisseur donne suite à cette demande dès qu'il la reçoit.

Divulgence au ministre

(2) Un fournisseur de services divulgue les renseignements recueillis en vertu du paragraphe (1) au ministre dans le délai, sous la forme et de la manière que précise le ministre.

Avis exigé par le paragraphe 39 (2) de la Loi sur l'accès à l'information et la protection de la vie privée

(3) Si le ministre recueille indirectement des renseignements personnels en vertu du paragraphe (1), l'avis exigé par le paragraphe 39 (2) de la *Loi sur l'accès à l'information et la protection de la vie privée* peut être donné :

- a) soit au moyen d'un avis public affiché sur un site Web du gouvernement de l'Ontario;
- b) soit par un autre mode prescrit.

Avis : fournisseurs de services

(4) Le ministre informe le fournisseur de services qui a recueilli les renseignements personnels en vertu du paragraphe (1) de l'avis visé au paragraphe (3). Le fournisseur de services avise alors le particulier auquel il fournit un service des renseignements énoncés dans l'avis sous la forme et de la manière que précise le ministre.

COLLECTE, UTILISATION ET DIVULGATION DE RENSEIGNEMENTS PERSONNELS PAR LES FOURNISSEURS DE SERVICES

Champ d'application de la présente partie

285 (1) Sous réserve des paragraphes (2), (3), (4), (5) et (7), les articles 286 à 332 s'appliquent à la collecte, à l'utilisation et à la divulgation de renseignements personnels par un fournisseur de services.

Exceptions : application d'autres lois à une institution

(2) Les articles 286 à 292 et 306 à 332 ne s'appliquent pas à une institution au sens de la *Loi sur l'accès à l'information et la protection de la vie privée* ou de la *Loi sur l'accès à l'information municipale et la protection de la vie privée*.

Exceptions : application d'autres lois à un dépositaire de renseignements sur la santé

(3) Les articles 286 à 292 et 295 à 332 ne s'appliquent pas à un dépositaire de renseignements sur la santé au sens de la *Loi de 2004 sur la protection des renseignements personnels sur la santé* à l'égard de la collecte, de l'utilisation ou de la divulgation de renseignements personnels sur la santé.

Exceptions : questions d'adoption

(4) Les articles 286 à 332 ne s'appliquent pas :

- a) à l'utilisation ou à la divulgation, en contravention à l'article 227, de renseignements ayant trait à une adoption par un titulaire de permis ou une société;
- b) à la collecte, à l'utilisation ou à la divulgation de renseignements donnés à un dépositaire désigné en application de l'article 224 ou à d'autres personnes en application de l'article 225.

Exceptions : autres questions

(5) Les articles 286 à 332 ne s'appliquent pas :

- a) aux dossiers figurant dans le registre tenu en application du paragraphe 133 (5);
- b) aux dossiers auxquels s'applique le paragraphe 130 (6) ou (8);
- c) aux rapports visés par une ordonnance rendue en vertu du paragraphe 163 (6).

Dossiers du fournisseur de services

(6) Sauf disposition contraire de la présente loi ou de ses règlements, la présente partie s'applique à tout dossier dont un fournisseur de services a le contrôle ou la garde, que le dossier ait été consigné avant ou après l'entrée en vigueur de la présente partie.

Divulgation interdite par la loi fédérale

(7) Il est entendu que la présente partie n'a pas pour effet d'autoriser ou d'exiger la divulgation de renseignements dont la divulgation est interdite en application du *Code criminel* (Canada), de la *Loi sur le système de justice pénale pour les adolescents* (Canada) ou de toute autre loi du Canada.

Collecte, utilisation et divulgation de renseignements personnels : consentement exigé

286 Le fournisseur de services ne doit pas recueillir des renseignements personnels concernant un particulier pour les besoins de la prestation d'un service, ni utiliser ou divulguer ces renseignements, sauf si, selon le cas :

- a) le particulier a donné au fournisseur de services le consentement prévu par la présente loi et la collecte, l'utilisation ou la divulgation des renseignements est nécessaire, au mieux de la connaissance du fournisseur de services, à une fin légitime;
- b) la présente loi autorise ou exige la collecte, l'utilisation ou la divulgation de renseignements sans le consentement du particulier.

Collecte, utilisation et divulgation de renseignements autres que des renseignements personnels

287 (1) Le fournisseur de services ne doit pas recueillir des renseignements personnels pour les besoins de la prestation d'un service, ni utiliser ou divulguer ces renseignements si d'autres renseignements permettent de réaliser ces fins.

Collecte, utilisation et divulgation de renseignements personnels : limitation à ce qui est raisonnablement nécessaire

(2) Le fournisseur de services ne doit pas recueillir, utiliser ou divulguer plus de renseignements personnels qu'il n'est raisonnablement nécessaire pour les besoins de la prestation d'un service.

Exception

(3) Le présent article ne s'applique pas aux renseignements personnels que la loi oblige un fournisseur de services à recueillir, à utiliser ou à divulguer.

Collecte indirecte de renseignements personnels**Avec consentement**

288 (1) Le fournisseur de services peut recueillir indirectement des renseignements personnels pour les besoins de la prestation d'un service si le particulier auquel les renseignements se rapportent y consent.

Sans consentement

(2) Le fournisseur de services peut recueillir indirectement des renseignements personnels pour les besoins de la prestation d'un service sans le consentement du particulier auquel les renseignements se rapportent si, selon le cas :

- a) les renseignements visés par la collecte sont raisonnablement nécessaires pour les besoins de la prestation d'un service ou pour évaluer, réduire ou éliminer un risque de préjudice grave à une personne ou un groupe de personnes et il n'est pas raisonnablement possible de recueillir directement auprès du particulier des renseignements personnels, selon le cas :
 - (i) raisonnablement exacts et complets,
 - (ii) en temps opportun;
- b) une société doit recueillir les renseignements auprès d'une autre société ou d'un service de bien-être de l'enfance intervenant hors de l'Ontario et les renseignements sont raisonnablement nécessaires pour évaluer, réduire ou éliminer un risque de préjudice à un enfant;
- c) une société doit recueillir les renseignements et les renseignements sont raisonnablement nécessaires à une fin prescrite liée à l'exercice des fonctions que lui attribue le paragraphe 35 (1);
- d) le commissaire autorise la collecte indirecte de renseignements;
- e) sous réserve des exigences et des restrictions prescrites, le cas échéant, la loi ou un traité, un accord ou un arrangement conclu en vertu d'une loi ou d'une loi du Canada autorise ou exige la collecte indirecte de renseignements.

Collecte directe sans consentement

289 Le fournisseur de services peut recueillir des renseignements personnels directement auprès du particulier qu'ils concernent, même si ce particulier n'est pas capable, si, selon le cas :

- a) la collecte est raisonnablement nécessaire pour les besoins de la prestation d'un service et il n'est pas raisonnablement possible d'obtenir un consentement en temps opportun;
- b) la collecte est raisonnablement nécessaire pour évaluer, réduire ou éliminer un risque de préjudice grave à une personne ou un groupe de personnes;
- c) le fournisseur de services est une société et les renseignements sont raisonnablement nécessaires pour évaluer, réduire ou éliminer un risque de préjudice à un enfant.

Avis au particulier : utilisation ou divulgation de renseignements

290 Lorsque le fournisseur de services recueille des renseignements personnels directement auprès d'un particulier, il lui donne un avis indiquant que les renseignements peuvent être utilisés ou divulgués conformément à la présente partie.

Utilisation permise

291 (1) Le fournisseur de services peut utiliser des renseignements personnels recueillis pour les besoins de la prestation d'un service à l'une ou l'autre des fins suivantes :

- a) la fin visée par la collecte ou la production des renseignements et toutes les fonctions raisonnablement nécessaires à la réalisation de cette fin, y compris la fourniture de renseignements à un de ses dirigeants, employés ou mandataires ou à un expert-conseil dont il a retenu les services, sauf si les renseignements ont été recueillis avec le consentement du particulier ou en vertu de l'alinéa 288 (2) a) et que le particulier donne une consigne expresse à l'effet contraire;
- b) si le fournisseur de services a des motifs raisonnables de croire que cela est raisonnablement nécessaire pour évaluer, réduire ou éliminer un risque de préjudice grave à une personne ou un groupe de personnes;
- c) une fin à laquelle la présente loi, une autre loi ou une loi du Canada autorise ou oblige une personne à les divulguer au fournisseur de services;
- d) la planification, la gestion ou la prestation des services que le fournisseur de services fournit ou finance, intégralement ou partiellement, l'affectation de ressources à leur égard, leur évaluation ou leur surveillance, ou la détection, la surveillance ou la répression des fraudes liées à ces services ou des cas ou des services ou des avantages connexes ont été reçus sans autorisation;
- e) des activités de gestion des risques et des erreurs;
- f) des activités visant à améliorer ou à maintenir la qualité d'un service;

- g) l'élimination ou la modification des renseignements afin de dissimuler l'identité du particulier;
- h) la sollicitation du consentement du particulier, ou de son mandataire spécial, lorsque les renseignements personnels qu'utilise le fournisseur de services à cette fin se limitent au nom et aux coordonnées du particulier et de son mandataire spécial, s'il y en a un;
- i) une instance poursuivie ou éventuelle à laquelle le fournisseur de services ou son dirigeant, son employé, son mandataire, son ancien dirigeant, son ancien employé ou son ancien mandataire est partie ou témoin, ou à laquelle il s'attend à l'être, si les renseignements concernent ou constituent une question en litige dans l'instance;
- j) l'exercice d'activités de recherche par le fournisseur de services, sous réserve des exigences et des restrictions prescrites, le cas échéant;
- k) sous réserve des exigences et des restrictions prescrites, le cas échéant, si la loi ou un traité, un accord ou un arrangement conclu en vertu d'une loi ou d'une loi du Canada l'autorise ou l'exige.

Exception

(2) Malgré l'alinéa (1) a), si le particulier que concernent les renseignements personnels donne une consigne expresse à l'effet contraire :

- a) la société peut tout de même utiliser ces renseignements personnels, selon le cas :
 - (i) s'ils sont raisonnablement nécessaires pour évaluer, réduire ou éliminer un risque de préjudice à un enfant,
 - (ii) à une fin prescrite liée à l'exercice des fonctions que lui attribue le paragraphe 35 (1);
- b) le fournisseur de services peut tout de même utiliser ces renseignements personnels s'ils sont raisonnablement nécessaires pour évaluer, réduire ou éliminer un risque de préjudice grave à une personne ou un groupe de personnes.

Divulgaration sans consentement

292 (1) Le fournisseur de services peut, sans le consentement d'un particulier, divulguer des renseignements personnels concernant ce particulier qui ont été recueillis pour les besoins de la prestation d'un service :

- a) à un organisme chargé de l'exécution de la loi au Canada soit pour faciliter une enquête effectuée en vue d'une instance, soit pour permettre à l'organisme d'établir s'il y a lieu d'effectuer une telle enquête;
- b) à un futur tuteur à l'instance ou à un futur représentant judiciaire du particulier aux fins de sa nomination à ce titre;
- c) à un tuteur à l'instance ou à un représentant judiciaire qui est autorisé en vertu des Règles de procédure civile, ou par une ordonnance du tribunal, à introduire ou à poursuivre une instance au nom du particulier, ou à y présenter une défense, ou à représenter le particulier dans une instance;
- d) pour contacter un membre de la parenté, un membre de la famille élargie, un ami ou le mandataire spécial éventuel du particulier, si ce dernier est blessé, frappé d'incapacité ou n'est pas capable par ailleurs de donner lui-même son consentement;
- e) pour contacter un membre de la parenté, un membre de la famille élargie ou un ami du particulier, si le particulier est décédé;
- f) sous réserve de l'article 294, en vue de se conformer, selon le cas :
 - (i) à une assignation délivrée, à une ordonnance rendue ou à une exigence semblable imposée dans le cadre d'une instance par une personne qui a compétence pour ordonner la production de renseignements,
 - (ii) à une règle de procédure relative à la production de renseignements dans une instance;
- g) si le fournisseur de services a des motifs raisonnables de croire que cela est nécessaire pour évaluer, réduire ou éliminer un risque de préjudice grave à une personne ou un groupe de personnes;
- h) sous réserve des exigences et des restrictions prescrites, le cas échéant, si la loi ou un traité, un accord ou un arrangement conclu en vertu d'une loi ou d'une loi du Canada autorise ou exige la divulgation de ces renseignements.

Évaluation, réduction ou élimination d'un risque de préjudice à un enfant

(2) Une société peut divulguer à une autre société ou à un service de bien-être de l'enfance intervenant hors de l'Ontario des renseignements personnels qui ont été recueillis pour les besoins de la prestation d'un service si ces renseignements sont raisonnablement nécessaires pour évaluer, réduire ou éliminer un risque de préjudice à un enfant.

Fin prescrite liée aux fonctions d'une société

(3) Une société peut divulguer des renseignements personnels qui ont été recueillis pour les besoins de la prestation d'un service si ces renseignements sont raisonnablement nécessaires à une fin prescrite liée à l'exercice des fonctions que lui attribue le paragraphe 35 (1).

Définition

(4) La définition qui suit s'applique au présent article.

«exécution de la loi» S'entend au sens du paragraphe 2 (1) de la *Loi sur l'accès à l'information et la protection de la vie privée*.

Divulgaration : planification et gestion de services**Divulgaration à une entité prescrite**

293 (1) Le fournisseur de services peut divulguer des renseignements personnels qu'il a recueillis sous le régime de la présente loi à une entité prescrite à des fins d'analyse ou de compilation de renseignements statistiques à l'égard de la gestion, de l'évaluation, de la surveillance ou de la planification de services ou de l'affectation de ressources à ces services, y compris leur prestation, si l'entité prescrite satisfait aux exigences du paragraphe (5).

Divulgaration à une autre personne ou entité

(2) Le fournisseur de services peut, sous réserve des exigences et des restrictions prescrites, divulguer des renseignements personnels qu'il a recueillis sous le régime de la présente loi à une personne ou entité qui n'est pas une entité prescrite aux fins mentionnées au paragraphe (1). La personne ou entité à laquelle le fournisseur divulgue de tels renseignements en vertu du présent paragraphe doit satisfaire aux exigences et aux restrictions prescrites relativement à l'utilisation, à la protection, à la divulgation, à la restitution ou à l'élimination des renseignements.

Divulgaration exigée par le ministre

(3) Le ministre peut exiger qu'un fournisseur de services divulgue des renseignements, y compris des renseignements personnels, à une entité prescrite, si elle satisfait aux exigences du paragraphe (5), ou à une personne ou entité qui n'est pas une entité prescrite aux fins mentionnées au paragraphe (1). La personne ou entité, y compris l'entité prescrite, à laquelle le fournisseur divulgue ces renseignements en vertu du présent paragraphe doit satisfaire aux exigences et restrictions prescrites relativement à l'utilisation, à la protection, à la divulgation, à la restitution ou à l'élimination des renseignements.

Exception

(4) Les paragraphes (1), (2) et (3) ne s'appliquent pas aux renseignements prescrits dans les circonstances prescrites.

Exigences relatives aux entités prescrites

(5) Le fournisseur de services peut divulguer des renseignements personnels à une entité prescrite en vertu du paragraphe (1) ou (3) si les conditions suivantes sont réunies :

- a) l'entité prescrite a adopté des règles de pratique et de procédure pour protéger la vie privée des particuliers visés par ces renseignements et maintenir le caractère confidentiel de ces renseignements;
- b) le commissaire a approuvé ces règles de pratique et de procédure.

Exception

(6) Malgré l'alinéa (5) b), le fournisseur de services peut divulguer des renseignements personnels à une entité prescrite en vertu du paragraphe (1) ou (3) avant le premier anniversaire du jour de l'entrée en vigueur du présent article et ce, même si le commissaire n'a pas approuvé ses règles de pratique et de procédure.

Examen des règles de pratique et de procédure par le commissaire

(7) Le commissaire examine les règles de pratique et de procédure de chaque entité prescrite tous les trois ans à compter de leur première approbation et indique au fournisseur de services si l'entité prescrite continue ou non de satisfaire aux exigences du paragraphe (5).

Autorisation : collecte de renseignements personnels par une entité prescrite ou une autre personne ou entité

(8) Une entité prescrite ou une personne ou entité qui n'est pas une entité prescrite est autorisée à recueillir les renseignements personnels que peut lui divulguer un fournisseur de services en vertu du paragraphe (1), (2) ou (3).

Utilisation et divulgation de renseignements personnels par une entité prescrite ou par une autre personne ou entité

(9) Sous réserve des exceptions et des exigences supplémentaires prescrites, le cas échéant, l'entité prescrite ou une personne ou entité qui n'est pas une entité prescrite qui reçoit des renseignements personnels en vertu du paragraphe (1), (2) ou (3) ne doit pas les utiliser, sauf aux fins pour lesquelles elle les a reçus, ni les divulguer, sauf si la loi l'exige.

Divulgaration réputée conforme

(10) Pour l'application de l'alinéa 42 (1) e) de la *Loi sur l'accès à l'information et la protection de la vie privée*, de l'alinéa 42 e) de la *Loi sur l'accès à l'information municipale et la protection de la vie privée* ou de l'alinéa 43 (1) h) de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*, la divulgation de renseignements personnels par une institution ou un dépositaire de renseignements sur la santé, au sens de ces lois, en vertu du présent article est réputée effectuée à des fins de conformité à la présente loi.

Dossiers relatifs aux troubles mentaux**Définitions**

294 (1) Les définitions qui suivent s'appliquent au présent article.

«dossier relatif à un trouble mental» S'entend d'un dossier ou d'une partie d'un dossier constitué au sujet d'un particulier relativement à un trouble important des processus émotifs, de la pensée ou de la cognition qui affaiblit grandement la capacité du particulier de formuler des jugements raisonnés. («record of a mental disorder»)

«tribunal» S'entend notamment de la Cour divisionnaire. («court»)

Divulgaration conformément à une assignation

(2) Le fournisseur de services divulgue ou transmet un dossier relatif à un trouble mental, ou en permet la consultation, conformément à une assignation, une ordonnance, une directive, un ordre, un avis ou une exigence similaire à l'égard d'une question en litige, ou qui peut l'être, dans un tribunal ou un autre organisme, à moins qu'un médecin ne déclare par écrit qu'il croit que cela :

- a) ou bien sera vraisemblablement préjudiciable au traitement ou à la guérison du particulier que le dossier concerne;
- b) ou bien aura vraisemblablement pour conséquence :
 - (i) soit de porter atteinte à l'état mental d'un autre particulier,
 - (ii) soit de causer un préjudice corporel à un autre particulier.

Décision du tribunal ou de l'organisme quant à la divulgation

(3) Si la divulgation, la transmission ou la consultation d'un dossier relatif à un trouble mental est exigée par un tribunal ou un organisme saisi d'une question en litige, le tribunal ou l'organisme établit si le dossier visé dans la déclaration du médecin doit être divulgué, transmis ou consulté.

Audience

(4) Avant de prendre la décision visée au paragraphe (3), le tribunal ou l'organisme donne un avis au médecin. Si le tribunal ou l'organisme tient une audience afin d'établir si le dossier doit être divulgué, transmis ou consulté, l'audience se tient à huis clos.

Questions étudiées

(5) Lorsqu'il prend la décision visée au paragraphe (3), le tribunal ou l'organisme étudie si la divulgation, la transmission ou la consultation du dossier relatif à un trouble mental visé dans la déclaration du médecin aura vraisemblablement une conséquence décrite à l'alinéa (2) a) ou b). À cette fin, le tribunal ou l'organisme peut consulter le dossier.

Ordonnance

(6) S'il est convaincu qu'une conséquence décrite à l'alinéa (2) a) ou b) se produira vraisemblablement, le tribunal ou l'organisme ne doit pas ordonner la divulgation, la transmission ou la consultation du dossier relatif à un trouble mental visé dans la déclaration du médecin, à moins d'être convaincu qu'il est essentiel de le faire dans l'intérêt de la justice.

Incompatibilité

(7) Les paragraphes (2) à (6) s'appliquent malgré toute disposition de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*.

Remise du dossier au fournisseur de services

(8) Si un dossier relatif à un trouble mental doit, à la suite d'une ordonnance, être divulgué, transmis ou consulté en application du présent article, le greffier du tribunal ou de l'organisme devant lequel le dossier est admis en preuve ou, si le dossier n'est pas admis en preuve, la personne à laquelle est transmis le dossier, le rend au fournisseur de services dès que possible après le règlement de la question en litige à l'égard de laquelle le dossier était exigé.

CONSENTEMENT**Éléments du consentement : collecte, utilisation et divulgation de renseignements personnels**

295 (1) Si la présente loi ou une autre loi exige le consentement d'un particulier à la collecte, à l'utilisation ou à la divulgation de renseignements personnels par un fournisseur de services, le consentement doit satisfaire aux exigences suivantes :

- a) être le consentement du particulier;
- b) être éclairé;
- c) se rapporter aux renseignements en question;
- d) ne pas être obtenu ni par supercherie ni par coercition.

Consentement implicite : collecte et utilisation de renseignements

(2) Le consentement à la collecte et à l'utilisation de renseignements personnels peut être implicite si la collecte est effectuée directement auprès du particulier auquel les renseignements se rapportent et qui sont recueillis pour les besoins de la prestation d'un service.

Consentement écrit ou oral

(3) Le consentement peut être écrit ou oral. Toutefois, un consentement oral ne peut être invoqué que si le fournisseur de services qui l'obtient consigne les renseignements suivants :

1. Le nom du particulier qui a donné le consentement.
2. Les renseignements auxquels le consentement se rapporte.
3. La manière dont l'avis concernant les fins visées, qu'exige le paragraphe (5), a été fourni au particulier.

Consentement éclairé

(4) Le consentement à la collecte, à l'utilisation ou à la divulgation de renseignements personnels est éclairé s'il est raisonnable dans les circonstances de croire que le particulier qu'ils concernent :

- a) d'une part, connaît les fins visées par la collecte, l'utilisation ou la divulgation;
- b) d'autre part, sait qu'il peut donner, refuser ou retirer son consentement.

Avis concernant les fins visées

(5) Sauf si cela n'est pas raisonnable dans les circonstances, un particulier est réputé connaître les fins visées par la collecte, l'utilisation ou la divulgation de renseignements personnels le concernant si le fournisseur de services, selon le cas :

- a) affiche un avis énonçant ces fins à un endroit où le particulier est susceptible d'en prendre connaissance;
- b) rend l'avis facilement accessible pour le particulier;
- c) remet au particulier une copie de l'avis;
- d) communique de toute autre façon le contenu de l'avis au particulier.

Disposition transitoire

(6) Le consentement que donne un particulier, avant le jour de l'entrée en vigueur du paragraphe (1), à la collecte, à l'utilisation ou à la divulgation de renseignements personnels est valide s'il satisfait aux exigences du présent article en la matière.

Retrait du consentement

296 Le particulier qui a donné son consentement peut le retirer en remettant un avis au fournisseur de services. Le retrait du consentement n'a cependant aucun effet rétroactif.

Consentement conditionnel

297 Si un particulier assortit son consentement à la collecte, à l'utilisation ou à la divulgation de renseignements personnels d'une condition, cette condition n'est pas applicable dans la mesure où elle prétend interdire ou limiter toute consignation de renseignements personnels, par un fournisseur de services, qu'exigent la loi ou des normes établies de pratique professionnelle ou institutionnelle.

Présomption de validité du consentement

298 Le fournisseur de services qui a obtenu le consentement à la collecte, à l'utilisation ou à la divulgation de renseignements personnels du particulier qu'ils concernent ou qui a reçu copie d'un document se présentant comme une attestation du consentement en question peut presumer que le consentement remplit les exigences de la présente loi et que le particulier ne l'a pas retiré, sauf s'il n'est pas raisonnable de le faire.

CAPACITÉ ET MANDATAIRE SPÉCIAL**Présomption de capacité**

299 Un particulier est présumé capable et un fournisseur de services peut invoquer cette présomption, sauf s'il a des motifs raisonnables de croire que le particulier n'est pas capable.

Capacité variable**Différents renseignements**

300 (1) Un particulier peut être capable à l'égard de certaines parties de renseignements personnels, mais incapable à l'égard d'autres parties.

Différents moments

(2) Un particulier peut être capable à un moment donné, mais incapable à un autre moment.

Mandataire spécial

301 (1) Le particulier qui est capable peut donner, refuser ou retirer son consentement. Il peut, s'il a 16 ans ou plus, autoriser par écrit un autre particulier de 16 ans ou plus qui est capable à être son mandataire spécial.

Enfant de moins de 16 ans

(2) Si le particulier est un enfant de moins de 16 ans, son parent, une société ou une autre personne autorisée à donner, à refuser ou à retirer le consentement à la place du parent peut être le mandataire spécial de l'enfant, sauf si les renseignements se rapportent :

- a) soit à un traitement au sujet duquel l'enfant a pris une décision conformément à la *Loi de 1996 sur le consentement aux soins de santé*;
- b) soit aux séances de counseling auxquelles l'enfant a consenti de son plein gré en application de la présente loi ou de l'ancienne loi.

Priorité de la décision de l'enfant capable sur celle du mandataire spécial

(3) Si le particulier est un enfant de moins de 16 ans qui est capable et qu'il existe une personne autorisée à agir comme mandataire spécial de l'enfant en application du paragraphe (2), la décision que prend l'enfant de donner, de refuser ou de retirer son consentement l'emporte sur toute décision incompatible du mandataire spécial.

Personne autorisée en vertu de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*

(4) Si un particulier n'est pas capable, une personne qui serait autorisée à consentir, au nom du particulier, à la collecte, à l'utilisation ou à la divulgation de renseignements personnels sur la santé en vertu de la *Loi de 2004 sur la protection des renseignements personnels sur la santé* peut être le mandataire spécial du particulier.

Facteurs à considérer pour donner son consentement

302 (1) La personne qui, en vertu de la présente partie, consent au nom ou à la place d'un particulier à la collecte, à l'utilisation ou à la divulgation de renseignements personnels par un fournisseur de services, qui refuse ou retire un tel consentement, ou qui donne une consigne expresse en vertu de l'alinéa 291 (1) a) prend en considération les facteurs suivants :

- a) les désirs, les valeurs et les croyances :
 - (i) qu'elle sait que le particulier a, si celui-ci est capable, et qu'elle croit qu'il voudrait voir respectés dans les décisions prises à l'égard des renseignements personnels le concernant,
 - (ii) qu'elle sait que le particulier avait lorsqu'il était capable ou en vie, si celui-ci est incapable ou décédé, et qu'elle croit qu'il aurait voulu voir respectés dans les décisions prises à l'égard des renseignements personnels le concernant;
- b) la question de savoir si les avantages prévus de la collecte, de l'utilisation ou de la divulgation des renseignements pour la personne l'emportent sur le risque de conséquences défavorables qui en résulteraient;
- c) la question de savoir si les fins auxquelles la collecte, l'utilisation ou la divulgation des renseignements est demandée peuvent être atteintes sans la collecte, l'utilisation ou la divulgation de ceux-ci;
- d) la question de savoir si la collecte, l'utilisation ou la divulgation des renseignements est nécessaire à l'exécution de toute obligation légale.

Établissement de la conformité

(2) Si le mandataire spécial d'un particulier incapable donne, refuse ou retire au nom de celui-ci son consentement à la collecte, à l'utilisation ou à la divulgation de renseignements personnels concernant le particulier par un fournisseur de services ou qu'il donne une consigne expresse en vertu de l'alinéa 291 (1) a), et que le fournisseur de services est d'avis que le mandataire spécial ne s'est pas conformé au paragraphe (1), le fournisseur peut, par voie de requête, demander à un organisme prescrit pour l'application du présent article d'établir si le mandataire spécial s'y est conformé.

Présomption : requête concernant la capacité

(3) La requête présentée à l'organisme prescrit en application du paragraphe (2) est réputée comprendre une requête présentée à un organisme prescrit en vertu du paragraphe 304 (3) à l'égard de la capacité du particulier, à moins que la capacité du particulier n'ait été constatée par un organisme prescrit en vertu de l'article 304 dans les six mois précédents.

Parties

(4) Sont parties à la requête les personnes suivantes :

1. Le fournisseur de services.

2. Le particulier incapable.
3. Le mandataire spécial.
4. Toute autre personne que précise l'organisme prescrit.

Pouvoir de l'organisme prescrit

(5) Lorsqu'il établit si le mandataire spécial s'est conforme au paragraphe (1), l'organisme prescrit peut substituer son opinion à celle du mandataire spécial.

Directives

(6) Si l'organisme prescrit établit que le mandataire spécial ne s'est pas conforme au paragraphe (1), il peut lui donner des directives et, ce faisant, il prend en considération les facteurs énoncés aux alinéas (1) a) à d).

Délai prévu pour se conformer

(7) L'organisme prescrit précise le délai dans lequel le mandataire spécial doit se conformer à ses directives.

Mandataire spécial réputé non autorisé

(8) Si le mandataire spécial ne se conforme pas aux directives de l'organisme prescrit dans le délai que celui-ci a précisé, il est réputé ne pas satisfaire aux exigences du paragraphe 301 (4).

Tuteur et curateur public

(9) Si le mandataire spécial qui reçoit des directives est le tuteur et curateur public, il est tenu de se conformer à ces directives, et le paragraphe (7) ne s'applique pas à lui.

Procédure

(10) Lorsqu'il effectue l'examen, l'organisme prescrit pour l'application du présent article se conforme aux exigences et restrictions prescrites.

Pouvoir supplémentaire du mandataire spécial

303 (1) Si la présente partie autorise ou oblige un particulier à présenter une demande, à donner une consigne ou à prendre une mesure et qu'un mandataire spécial est autorisé à consentir, à refuser ou à retirer un consentement au nom du particulier à la collecte, à l'utilisation ou à la divulgation de renseignements personnels concernant le particulier, le mandataire spécial peut également présenter une demande, donner une consigne ou prendre une mesure au nom du particulier.

Mention du particulier valant mention du mandataire spécial

(2) Si un mandataire spécial présente une demande, donne une consigne ou prend une mesure en vertu du paragraphe (1) au nom d'un particulier, la mention, dans la présente partie, du particulier à l'égard de la demande présentée, de la consigne donnée ou de la mesure prise par le mandataire spécial vaut mention du mandataire spécial et non du particulier.

Constataion d'incapacité

304 (1) Le fournisseur de services qui constate qu'un particulier est incapable le fait conformément aux exigences et aux restrictions prescrites, le cas échéant.

Renseignements sur la constatation

(2) S'il est constaté qu'un particulier est incapable, le fournisseur de services lui fournit des renseignements sur les conséquences d'une telle constatation, y compris les renseignements prescrits, le cas échéant, s'il est raisonnable de le faire dans les circonstances.

Révision de la constatation

(3) Lorsque le fournisseur de services constate qu'un particulier est incapable, le particulier ou une personne prescrite peut, par voie de requête, demander qu'un organisme prescrit pour l'application du présent article revise la constatation.

Organisme de révision

(4) Dans le cadre de sa révision, l'organisme prescrit pour l'application du présent article se conforme aux exigences et aux restrictions prescrites.

Parties

(5) Sont parties à la requête présentée en vertu du paragraphe (3) les personnes suivantes :

- a) le particulier ou l'auteur prescrit de la requête en révision de la constatation;
- b) le fournisseur de services qui a constaté l'incapacité;
- c) toutes les autres personnes que précise l'organisme prescrit.

Pouvoirs de l'organisme de révision

(6) L'organisme prescrit pour l'application du présent article peut confirmer la constatation d'incapacité ou établir que le particulier est capable.

Limite quant aux requêtes répétées

(7) Si la constatation selon laquelle un particulier est incapable est confirmée à la suite du règlement définitif d'une requête présentée en vertu du présent article, le particulier ne doit pas présenter une nouvelle requête en vertu du présent article qui porterait sur la même question ou une question semblable dans les six mois suivant le règlement définitif de la requête précédente, sauf si l'organisme prescrit pour l'application du présent article l'y autorise au préalable.

Motifs d'une autorisation

(8) L'organisme prescrit peut autoriser la présentation d'une nouvelle requête s'il est convaincu qu'il est survenu un changement important dans les circonstances qui justifie le réexamen de la capacité du particulier.

Nomination d'un représentant

305 (1) Un particulier d'au moins 16 ans dont l'incapacité est constatée peut, par voie de requête, demander à un organisme prescrit pour l'application du présent article de nommer un représentant pour consentir en son nom à la collecte, à l'utilisation ou à la divulgation de renseignements personnels par un fournisseur de services.

Requête présentée par le représentant proposé

(2) Si un particulier est incapable, un autre particulier d'au moins 16 ans peut, par voie de requête, demander à un organisme prescrit pour l'application du présent article de le nommer représentant pour consentir, au nom du particulier incapable, à la collecte, à l'utilisation ou à la divulgation de renseignements personnels.

Présomption : requête concernant la capacité

(3) La requête présentée en vertu du paragraphe (1) ou (2) à un organisme prescrit est réputée comprendre une requête présentée à un organisme prescrit en vertu du paragraphe 304 (3) à l'égard de la capacité du particulier, à moins que la capacité du particulier n'ait été constatée par un organisme prescrit en vertu de l'article 304 dans les six mois précédents.

Exception

(4) Les paragraphes (1) et (2) ne s'appliquent pas si le particulier auquel se rapportent les renseignements personnels a un tuteur à la personne, un tuteur aux biens, un procureur au soin de la personne ou un procureur aux biens qui a le pouvoir de donner ou de refuser son consentement à la collecte, à l'utilisation ou à la divulgation des renseignements.

Parties

(5) Sont parties à la requête les personnes suivantes :

1. Le particulier auquel se rapportent les renseignements personnels.
2. Le représentant proposé désigné dans la requête.
3. Chaque personne visée à la disposition 4, 5, 6 ou 7 du paragraphe 26 (1) de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*.
4. Toute autre personne que précise l'organisme prescrit.

Nomination

(6) Lorsqu'il nomme un représentant en vertu du présent article, l'organisme prescrit peut l'autoriser à consentir, au nom du particulier auquel se rapportent les renseignements personnels :

- a) soit à une collecte, à une utilisation ou à une divulgation de renseignements particulière à un moment particulier;
- b) soit à une collecte, à une utilisation ou à une divulgation de renseignements d'un genre et dans les circonstances que précise l'organisme prescrit, si l'incapacité du particulier est constatée au moment où le consentement est demandé;
- c) soit à toute collecte, à toute utilisation ou à toute divulgation de renseignements à n'importe quel moment, si l'incapacité du particulier est constatée au moment où le consentement est demandé.

Critères de nomination

(7) L'organisme prescrit peut faire une nomination en vertu du présent article s'il est convaincu qu'il est satisfait aux exigences suivantes :

1. Le particulier auquel se rapportent les renseignements personnels ne s'oppose pas à la nomination.
2. Le représentant consent à la nomination, est âgé d'au moins 16 ans et est capable.
3. La nomination est dans l'intérêt véritable du particulier auquel se rapportent les renseignements personnels.

Pouvoirs de l'organisme prescrit

(8) Sauf si le particulier auquel se rapportent les renseignements personnels s'y oppose, l'organisme prescrit peut, selon le cas :

- a) nommer représentant un particulier différent de celui qui est désigné dans la requête;
- b) limiter la durée de la nomination;
- c) subordonner la nomination à toute autre condition;
- d) à la requête de quiconque, supprimer, modifier ou suspendre une condition à laquelle est subordonnée la nomination ou subordonner celle-ci à une condition supplémentaire.

Révocation

(9) L'organisme prescrit pour l'application du présent article peut, à la requête de quiconque, révoquer une nomination faite en vertu du présent article si, selon le cas :

- a) le particulier auquel se rapportent les renseignements personnels ou le représentant demande la révocation;
- b) le représentant n'est plus capable;
- c) la nomination n'est plus dans l'intérêt véritable du particulier auquel se rapportent les renseignements personnels;
- d) le particulier auquel se rapportent les renseignements personnels a un tuteur à la personne, un tuteur aux biens, un procureur au soin de la personne ou un procureur aux biens qui a le pouvoir de donner ou de refuser son consentement aux types de collectes, d'utilisations et de divulgations de renseignements pour lesquels il a été nommé, dans les circonstances auxquelles s'applique la nomination.

Procédure

(10) Lorsqu'il effectue l'examen, l'organisme prescrit pour l'application du présent article se conforme aux exigences et restrictions prescrites.

INTÉGRITÉ ET PROTECTION DE RENSEIGNEMENTS PERSONNELS**Mesures pour veiller à l'exactitude des renseignements personnels****Renseignements personnels utilisés par le fournisseur de services**

306 (1) Le fournisseur de services qui utilise des renseignements personnels pour les besoins de la prestation d'un service prend des mesures raisonnables pour veiller à ce que ces renseignements soient aussi exacts, complets et à jour que nécessaire, compte tenu des fins auxquelles il les utilise.

Renseignements personnels divulgués par le fournisseur de services

(2) Le fournisseur de services qui divulgue des renseignements personnels qui ont été recueillis pour les besoins de la prestation d'un service :

- a) soit prend des mesures raisonnables pour veiller à ce que les renseignements soient aussi exacts, complets et à jour que nécessaire, compte tenu des fins de la divulgation qui lui sont connues au moment où la divulgation est faite;
- b) soit énonce clairement au destinataire de la divulgation les limites, s'il y en a, concernant l'exactitude, l'intégralité ou la mise à jour des renseignements.

Dossier de renseignements personnels divulgués

(3) Le fournisseur de services qui divulgue des renseignements personnels qui ont été recueillis pour les besoins de la prestation d'un service consigne de la manière prescrite toutes les divulgations faites en vertu des dispositions prescrites.

Mesures pour veiller à ce que la collecte de renseignements personnels soit autorisée

307 Le fournisseur de services prend des mesures raisonnables pour veiller à ce que les renseignements personnels ne soient pas recueillis sans autorisation.

Mesures pour veiller à la sécurité des renseignements personnels

308 (1) Le fournisseur de services prend des mesures raisonnables pour veiller à ce que, d'une part, les renseignements personnels qui ont été recueillis pour les besoins de la prestation d'un service et dont il a la garde ou le contrôle soient protégés contre le vol, la perte et toute utilisation ou divulgation non autorisée et, d'autre part, les dossiers qui les contiennent soient protégés contre toute duplication, modification ou élimination non autorisée.

Avis de vol ou de perte communiqué à un particulier

(2) Sous réserve des exceptions et des exigences supplémentaires prescrites, si des renseignements personnels qui ont été recueillis pour les besoins de la prestation d'un service et dont un fournisseur de services a la garde ou le contrôle sont soit volés ou perdus, soit utilisés ou divulgués sans autorisation, le fournisseur de services prend les mesures suivantes :

- a) il en avise le particulier auquel se rapportent les renseignements à la première occasion raisonnable;
- b) il précise dans l'avis que le particulier a le droit de porter plainte devant le commissaire en vertu de l'article 316.

Avis au commissaire et au ministre

(3) Si les circonstances entourant le vol ou la perte des renseignements personnels ou leur utilisation ou leur divulgation sans autorisation satisfont aux exigences prescrites, le fournisseur de services avise le commissaire et le ministre du vol ou de la perte de ces renseignements ou de leur utilisation ou de leur divulgation sans autorisation.

Traitement des dossiers

309 (1) Le fournisseur de services :

- a) prend des mesures raisonnables pour veiller à ce que les dossiers de renseignements personnels recueillis pour les besoins de la prestation d'un service dont il a la garde ou le contrôle soient conservés, transférés et éliminés de manière sécuritaire;
- b) se conforme aux exigences prescrites à l'égard de la conservation, du transfert et de l'élimination des dossiers.

Conservation de dossiers faisant l'objet d'une demande d'accès

(2) Malgré le paragraphe (1), le fournisseur de services qui a la garde ou le contrôle de renseignements personnels faisant l'objet d'une demande d'accès en vertu de l'article 312 les conserve aussi longtemps que nécessaire pour permettre au particulier d'épuiser tout recours prévu par la présente loi qu'il peut avoir à l'égard de la demande.

Divulgaration au successeur

310 (1) Un fournisseur de services peut divulguer à son successeur éventuel des renseignements personnels concernant un particulier afin de lui permettre d'évaluer les activités du fournisseur, à condition de conclure d'abord avec lui un accord selon lequel le successeur s'engage à protéger la sécurité et le caractère confidentiel des renseignements et à ne les conserver qu'aussi longtemps qu'ils lui seront nécessaires aux fins de l'évaluation.

Transfert au successeur

(2) Un fournisseur de services peut transférer à son successeur un dossier de renseignements personnels concernant un particulier à condition de prendre des mesures raisonnables pour en aviser le particulier avant de le faire ou, si ce n'est pas raisonnablement possible, dès que possible après l'avoir fait.

Définition

(3) La définition qui suit s'applique au présent article.

«successeur éventuel» et «successeur» S'entendent d'un successeur éventuel ou d'un successeur qui est un fournisseur de services ou qui le sera s'il devient un successeur.

Déclaration publique écrite par le fournisseur de services

311 (1) Le fournisseur de services met à la disposition du public, d'une manière opportune dans les circonstances, une déclaration écrite dans un langage clair et facile à comprendre qui réunit les conditions suivantes :

- a) elle expose, d'une manière générale, les pratiques relatives aux renseignements qu'a adoptées le fournisseur de services;
- b) elle précise la façon de communiquer avec le fournisseur de services;
- c) elle précise la façon dont un particulier peut avoir accès à un dossier de renseignements personnels le concernant, et dont le fournisseur de services a la garde ou le contrôle, et la façon dont il peut en demander la rectification;
- d) elle précise la façon de porter plainte devant le fournisseur de services et le commissaire en vertu de la présente partie.

Utilisation ou divulgation contraire aux pratiques relatives aux renseignements du fournisseur de services

(2) Le fournisseur de services qui utilise ou divulgue des renseignements personnels sans le consentement du particulier qu'ils concernent d'une manière qui ne correspond pas à l'exposé de ses pratiques relatives aux renseignements visé à l'alinéa (1) a) prend les mesures suivantes :

- a) il informe le particulier des utilisations et des divulgations de renseignements personnels à la première occasion raisonnable, sauf si, en application de l'article 312, le particulier n'a pas le droit d'avoir accès à un dossier des renseignements;
- b) il prend note des utilisations et des divulgations de renseignements personnels;
- c) il verse la note aux dossiers de renseignements personnels concernant le particulier, dont il a la garde ou le contrôle, ou la consigne sous une forme qui est liée à ces dossiers.

ACCÈS DU PARTICULIER AUX RENSEIGNEMENTS PERSONNELS**Droit d'accès du particulier**

312 (1) Un particulier a le droit d'avoir accès au dossier de renseignements personnels le concernant dont un fournisseur de services a la garde ou le contrôle et qui se rapporte à la prestation d'un service à son égard, sauf si, selon le cas :

- a) le dossier ou les renseignements qu'il contient sont assujettis à un privilège juridique qui en limite la divulgation au particulier;
- b) une autre loi, une loi du Canada ou une ordonnance du tribunal en interdit la divulgation au particulier;
- c) les renseignements contenus dans le dossier ont été recueillis ou produits essentiellement en prévision d'une instance ou aux fins de leur utilisation dans une instance et celle-ci ainsi que les appels ou les procédures qui en résultent ne sont pas terminés;
- d) il serait raisonnable de s'attendre à ce que le fait de donner un tel accès au particulier :
 - (i) soit cause un risque de préjudice grave au particulier ou à un autre particulier,
 - (ii) soit permette l'identification d'un particulier dont la loi exigeait qu'il fournisse au fournisseur de services les renseignements contenus dans le dossier,
 - (iii) soit permette l'identification d'un particulier qui a, explicitement ou implicitement et de façon confidentielle, fourni au fournisseur de services des renseignements contenus dans le dossier, si le fournisseur estime approprié dans les circonstances que l'identité de ce particulier demeure confidentielle.

Droit d'accès à la partie du dossier ne faisant l'objet d'aucune restriction

(2) Malgré le paragraphe (1), un particulier a le droit d'avoir accès à la partie d'un dossier de renseignements personnels le concernant qui peut raisonnablement être séparée de la partie du dossier à laquelle il n'a pas le droit d'avoir accès par l'effet des alinéas (1) a) à d).

Droit d'accès à la partie du dossier qui ne porte pas sur la prestation d'un service

(3) Malgré le paragraphe (1), si un dossier ne porte pas principalement sur la prestation d'un service au particulier qui demande l'accès au dossier, le particulier n'a le droit d'avoir accès qu'aux renseignements personnels figurant dans le dossier qui le concernent et qui peuvent raisonnablement être séparés du dossier.

Consultation concernant les préjudices

(4) Avant de décider de refuser de donner l'accès à un dossier de renseignements personnels à un particulier en vertu du sous-alinéa (1) d) (i), le fournisseur de services peut consulter un membre de l'Ordre des médecins et chirurgiens de l'Ontario, de l'Ordre des psychologues de l'Ontario ou de l'Ordre des travailleurs sociaux et des techniciens en travail social de l'Ontario.

Accès informel

(5) La présente partie n'a pas pour effet d'empêcher le fournisseur de services de donner accès à un dossier de renseignements personnels à un particulier qui y a droit, si le particulier présente une demande d'accès verbale ou qu'il ne présente pas de demande d'accès en vertu de l'article 313.

Communication entre le fournisseur de services et le particulier

(6) La présente partie n'a pas pour effet d'empêcher le fournisseur de services de communiquer avec un particulier ou son mandataire spécial au sujet d'un dossier de renseignements personnels auquel le particulier a un droit d'accès.

Demande d'accès

313 (1) Un particulier peut exercer un droit d'accès à un dossier de renseignements personnels en présentant une demande d'accès écrite au fournisseur de services qui a la garde ou le contrôle des renseignements.

Demande détaillée

(2) La demande doit être suffisamment détaillée pour permettre au fournisseur de services de reconnaître et de retrouver le dossier moyennant des efforts raisonnables.

Aide du fournisseur de services

(3) Si la demande n'est pas suffisamment détaillée pour lui permettre de reconnaître et de retrouver le dossier moyennant des efforts raisonnables, le fournisseur de services doit proposer à l'auteur de la demande d'accès de l'aider à reformuler sa demande pour la rendre conforme au paragraphe (2).

Réponse du fournisseur de services

314 (1) Le fournisseur de services qui reçoit d'un particulier une demande d'accès à un dossier de renseignements personnels prend l'une ou l'autre des mesures suivantes :

- a) il met le dossier à la disposition du particulier pour consultation et, à la demande du particulier, lui en fournit une copie et, si cela est raisonnablement possible, une explication de son objet et de sa nature et des termes, codes ou abréviations qui y figurent;
- b) il donne au particulier un avis écrit selon lequel il a conclu, après avoir effectué une recherche raisonnable, que le dossier n'existe pas, est introuvable ou ne relève pas de la présente partie;
- c) s'il rejette tout ou partie de la demande en vertu d'une disposition de la présente partie, à l'exception de l'alinéa 312 (1) c) ou d), il donne un avis écrit motivé à cet effet au particulier dans lequel il précise que le particulier a le droit de porter plainte à ce sujet devant le commissaire en vertu de l'article 316;
- d) sous réserve du paragraphe (2), s'il rejette tout ou partie de la demande en vertu de l'alinéa 312 (1) c) ou d), il donne un avis écrit au particulier dans lequel il précise que le particulier a le droit de porter plainte à ce sujet devant le commissaire en vertu de l'article 316 et que, selon le cas :
 - (i) il rejette tout ou partie de la demande, tout en énonçant lequel des alinéas 312 (1) c) et d) s'applique,
 - (ii) il rejette tout ou partie de la demande en application de l'alinéa 312 (1) c) ou d), ou des deux, sans toutefois énoncer lequel de ces alinéas s'applique,
 - (iii) il refuse de confirmer ou de nier l'existence de tout dossier, sous réserve des alinéas 312 (1) c) et d).

Exception

(2) Le fournisseur de services ne doit pas agir en application du sous-alinéa (1) d) (i) s'il est raisonnable de s'attendre à ce que ceci ait pour effet, dans les circonstances connues de la personne qui prend la décision pour le compte du fournisseur de services, de révéler au particulier, directement ou indirectement, des renseignements auxquels il n'a aucun droit d'accès.

Délai de réponse

(3) Dès que possible, mais au plus tard 30 jours après avoir reçu la demande du particulier, le fournisseur de services lui donne, par avis écrit, la réponse exigée par le paragraphe (1) ou proroge le délai de réponse d'au plus 90 jours si, selon le cas :

- a) le fait de répondre à la demande dans les 30 jours aurait pour effet d'entraver abusivement ses activités en raison du grand nombre de renseignements demandés ou parce qu'une longue recherche s'imposerait pour les retrouver;
- b) il ne serait pas raisonnablement possible de terminer à temps l'évaluation visée au paragraphe 312 (1) qui est nécessaire pour répondre à la demande dans le délai de 30 jours.

Prorogation du délai : avis et réponse

(4) Le fournisseur de services qui proroge le délai en application du paragraphe (3) fait ce qui suit :

- a) il remet au particulier un avis écrit motivé de la prorogation dans lequel il énonce la durée du nouveau délai;
- b) il répond à la demande du particulier, comme l'exige le paragraphe (1), dès que possible et au plus tard à la fin du nouveau délai.

Accès accéléré

(5) Malgré les paragraphes (3) et (4), si le particulier présente au fournisseur de services une preuve suffisante pour le convaincre qu'il a besoin d'accéder au dossier demandé de renseignements personnels dans un délai précis, le fournisseur de services répond dans ce délai s'il peut raisonnablement le faire.

Demande frivole ou vexatoire

(6) Le fournisseur de services qui a des motifs raisonnables de croire qu'une demande d'accès à un dossier de renseignements personnels est frivole ou vexatoire ou est présentée de mauvaise foi peut refuser au particulier l'accès au dossier demandé, auquel cas il remet au particulier un avis motivé à cet effet dans lequel il précise que le particulier a le droit de porter plainte à ce sujet devant le commissaire en vertu de l'article 316.

Demande réputée rejetée

(7) Le fournisseur de services qui ne répond pas à une demande d'accès dans le délai imparti est réputé l'avoir rejetée.

Droit de porter plainte

(8) Si le fournisseur de services rejette ou est réputé avoir rejeté tout ou partie de la demande :

- a) d'une part, le particulier a le droit de porter plainte à ce sujet devant le commissaire en vertu de l'article 316;
- b) d'autre part, dans la plainte, le fardeau de la preuve en ce qui concerne le rejet incombe au fournisseur de services.

Identité du particulier

(9) Le fournisseur de services ne doit pas mettre tout ou partie d'un dossier de renseignements personnels à la disposition d'un particulier, ni lui en fournir une copie en application de l'alinéa (1) a), sans avoir pris au préalable des mesures raisonnables pour s'assurer de son identité.

Aucuns droits exigibles pour l'accès

(10) Le fournisseur de services ne doit pas exiger de droits pour permettre l'accès d'un particulier à un dossier en application du présent article, sauf dans les circonstances prescrites.

RECTIFICATIONS À APPORTER AUX DOSSIERS**Rectification d'un dossier****Interprétation**

315 (1) Au présent article, la mention d'une rectification d'un dossier ou du fait de rectifier un dossier inclut l'ajout de renseignements ou le fait d'en ajouter afin de compléter le dossier.

Demande écrite

(2) Un particulier peut demander par écrit au fournisseur de services de rectifier un dossier de renseignements personnels le concernant auquel le fournisseur lui a donné accès et qu'il croit inexact ou incomplet.

Demande verbale

(3) Le présent article n'a pas pour effet d'empêcher le fournisseur de services, sur demande verbale du particulier, de rectifier le dossier.

Délai

(4) Dès que possible, mais au plus tard 30 jours après avoir reçu la demande de rectification visée au paragraphe (2), le fournisseur de services, par avis écrit remis au particulier, accède à la demande, la rejette ou proroge le délai de réponse d'au plus 90 jours si, selon le cas :

- a) le fait de répondre à la demande dans les 30 jours aurait pour effet d'entraver abusivement ses activités;
- b) il ne serait pas raisonnablement possible de terminer à temps les consultations nécessaires pour répondre à la demande dans le délai de 30 jours.

Prorogation du délai

(5) Le fournisseur de services qui proroge le délai en application du paragraphe (4) doit, par avis écrit remis au particulier :

- a) d'une part, énoncer la durée du nouveau délai et les motifs de la prorogation;
- b) d'autre part, accéder à la demande du particulier ou la rejeter dès que possible dans les circonstances, mais au plus tard à la fin du nouveau délai.

Demande frivole ou vexatoire

(6) Le fournisseur de services qui a des motifs raisonnables de croire qu'une demande de rectification est frivole ou vexatoire ou est présentée de mauvaise foi peut refuser d'y accéder, auquel cas il remet au particulier un avis motivé à cet effet dans lequel il précise que le particulier a le droit de porter plainte à ce sujet devant le commissaire en vertu de l'article 316.

Demande réputée rejetée

(7) Le fournisseur de services qui ne répond pas à une demande de rectification dans le délai imparti est réputé l'avoir rejetée.

Droit de porter plainte

(8) Si le fournisseur de services rejette ou est réputé avoir rejeté tout ou partie de la demande :

- a) d'une part, le particulier a le droit de porter plainte à ce sujet devant le commissaire en vertu de l'article 316;
- b) d'autre part, dans la plainte, le fardeau de la preuve en ce qui concerne le rejet incombe au fournisseur de services.

Obligation de rectifier

(9) Le fournisseur de services accède à la demande de rectification si le particulier le convainc que le dossier est inexact ou incomplet et qu'il lui fournit les renseignements nécessaires pour lui permettre de le rectifier.

Exceptions

(10) Malgré le paragraphe (9), le fournisseur de services n'est pas tenu de rectifier un dossier de renseignements personnels si, selon le cas :

- a) il n'est pas le premier créateur du dossier et il n'a pas les connaissances, les compétences ou le pouvoir nécessaires pour le rectifier;
- b) le dossier consiste en une opinion ou une observation professionnelle faite de bonne foi au sujet du particulier.

Manière d'effectuer une rectification

(11) Lorsqu'il accède à une demande de rectification, le fournisseur de services fait ce qui suit :

- a) il apporte la rectification demandée :
 - (i) d'une part, en consignait les renseignements exacts dans le dossier ou, si cela est impossible, en veillant à ce qu'il y ait en place un système pratique qui permette à quiconque a accès au dossier de savoir que les renseignements qui y figurent sont inexacts ou incomplets et d'être dirigé vers les renseignements exacts,
 - (ii) d'autre part, en rayant les renseignements inexacts de manière à ne pas oblitérer le dossier ou, si cela est impossible, en identifiant les renseignements comme étant inexacts, en les séparant du dossier, en les stockant indépendamment de celui-ci et en y conservant un lien qui permette à une personne de retrouver les renseignements inexacts;
- b) il avise le particulier de ce qui a été fait en application de l'alinéa a);
- c) il avise par écrit de la rectification demandée, à la demande du particulier et dans la mesure où il est raisonnablement possible de le faire, les personnes à qui il a divulgué les renseignements à l'égard desquels le particulier a demandé la rectification du dossier, sauf s'il n'y a pas raisonnablement lieu de s'attendre à ce que la rectification puisse avoir des répercussions sur la prestation continue de services.

Avis de rejet

(12) L'avis de rejet visé au paragraphe (4) ou (5) doit énoncer les motifs du rejet et informer le particulier qu'il a le droit de faire ce qui suit :

- a) rédiger une déclaration de désaccord concise qui énonce la rectification que le fournisseur de services a refusé d'apporter;
- b) exiger que le fournisseur de services verse la déclaration de désaccord aux dossiers de renseignements personnels qu'il détient à l'égard du particulier et qu'il la divulgue chaque fois qu'il divulgue des renseignements auxquels elle se rapporte;
- c) exiger que le fournisseur de services fasse tous les efforts raisonnables pour divulguer la déclaration de désaccord à quiconque aurait été avisé en application de l'alinéa (11) c) si le fournisseur de services avait accédé à la demande de rectification;
- d) porter plainte devant le commissaire en vertu de l'article 316 au sujet du rejet.

Droits du particulier

(13) Si le fournisseur de services rejette tout ou partie d'une demande de rectification ou est réputé l'avoir fait, le particulier a le droit de prendre l'une quelconque des mesures énoncées au paragraphe (12).

Obligation du fournisseur de services

(14) Si le particulier prend la mesure visée à l'alinéa (12) b) ou c), le fournisseur de services doit se conformer aux exigences visées à l'alinéa applicable.

Aucuns droits exigibles pour la rectification

(15) Le fournisseur de services ne doit pas exiger de droits pour rectifier un dossier en application du présent article ou pour se conformer au paragraphe (14).

PLAINTES, EXAMENS ET INSPECTIONS

Dépôt d'une plainte auprès du commissaire

316 (1) Quiconque a des motifs raisonnables de croire qu'une autre personne a contrevenu, ou est sur le point de contrevenir, à une disposition de la présente partie ou aux règlements pris pour l'application de la présente partie peut porter plainte devant le commissaire.

Délai de dépôt de la plainte

(2) La plainte visée au paragraphe (1) doit être faite par écrit et être déposée, selon le cas :

- a) au plus tard un an après que l'objet de la plainte a été porté pour la première fois à l'attention du plaignant ou après qu'il aurait dû raisonnablement être porté à son attention, selon la plus courte de ces périodes;
- b) dans le délai plus long qu'autorise le commissaire si celui-ci est convaincu que le nouveau délai ne cause aucun préjudice à qui que ce soit.

Idem : demande rejetée

(3) La plainte visée à l'alinéa 314 (1) c) ou d), au paragraphe 314 (8), 315 (6) ou (8) ou à l'alinéa 315 (12) d) doit être faite par écrit et être déposée au plus tard six mois après que le fournisseur de services a rejeté ou est réputé avoir rejeté la demande du particulier.

Réponse du commissaire

317 (1) Lorsqu'il reçoit une plainte portée en vertu de la présente partie, le commissaire peut informer de la nature de la plainte la personne qui en fait l'objet et, selon le cas :

- a) s'enquérir des moyens, à l'exclusion de la plainte, auxquels a ou a eu recours le plaignant pour régler l'objet de la plainte;
- b) exiger du plaignant qu'il tente de parvenir à un règlement avec la personne faisant l'objet de la plainte dans le délai que précise le commissaire;
- c) autoriser un médiateur à examiner la plainte et à tenter d'amener le plaignant et la personne faisant l'objet de la plainte à parvenir à un règlement dans le délai que précise le commissaire.

Aucun effet sur les droits et obligations

(2) Si le commissaire prend une des mesures visées à l'alinéa (1) b) ou c), mais qu'aucun règlement n'intervient dans le délai précisé :

- a) aucune des tractations entre les parties à la tentative de règlement ne doit porter atteinte aux droits et obligations que la présente partie leur attribue;
- b) aucun des renseignements divulgués dans le cadre de cette tentative de règlement ne doit porter atteinte aux droits et obligations que la présente partie attribue aux parties;
- c) aucun des renseignements divulgués dans le cadre de cette tentative de règlement qui sont assujettis à un privilège relatif à la médiation ne doit être utilisé ou divulgué à une autre fin, y compris l'examen d'une plainte effectué en vertu du présent article ou une inspection effectuée en vertu de l'article 320, à moins que toutes les parties y consentent expressément.

Examen par le commissaire

(3) S'il ne prend aucune des mesures visées à l'alinéa (1) b) ou c) ou qu'il prend une mesure visée à l'un de ces alinéas, mais qu'aucun règlement n'intervient dans le délai précisé, le commissaire peut examiner l'objet d'une plainte portée en vertu de la présente partie s'il est convaincu qu'il existe des motifs raisonnables de le faire.

Aucun examen

(4) Le commissaire peut décider de ne pas examiner l'objet de la plainte pour tout motif qu'il estime approprié, y compris s'il est convaincu que, selon le cas :

- a) la personne faisant l'objet de la plainte y a répondu adéquatement;
- b) la plainte a été traitée ou pourrait l'être de façon plus appropriée, au début ou en totalité, au moyen d'une procédure, autre qu'une plainte portée en vertu de la présente partie;
- c) le temps qui s'est écoulé entre la date à laquelle l'objet de la plainte a pris naissance et la date où il a été porté plainte est tel que l'examen prévu au présent article causerait vraisemblablement un préjudice indu à quiconque;
- d) le plaignant n'a pas un intérêt personnel suffisant dans l'objet de la plainte;
- e) la plainte est frivole ou vexatoire ou est portée de mauvaise foi.

Avis

(5) Lorsqu'il décide de ne pas examiner l'objet d'une plainte, le commissaire en avise le plaignant et précise le motif de sa décision dans son avis.

Idem

(6) Lorsqu'il décide d'examiner l'objet d'une plainte, le commissaire en avise la personne faisant l'objet de la plainte.

Examen à l'initiative du commissaire

318 (1) Le commissaire peut, de sa propre initiative, examiner toute question s'il a des motifs raisonnables de croire qu'une personne a contrevenu ou est sur le point de contrevenir à une disposition de la présente partie ou des règlements et que l'objet de l'examen se rapporte à la contravention.

Avis

(2) Lorsqu'il décide d'effectuer un examen en vertu du présent article, le commissaire en avise chaque personne dont les activités seront examinées.

Procédure relative à l'examen du commissaire

319 (1) Le commissaire peut adopter les règles de procédure qu'il estime nécessaires lorsqu'il effectue un examen en vertu de l'article 317 ou 318. *La Loi sur l'exercice des compétences légales ne s'applique pas à l'examen.*

Preuve

(2) Lorsqu'il effectue un examen en vertu de l'article 317 ou 318, le commissaire peut recevoir et accepter les éléments de preuve et autres renseignements qu'il estime appropriés, qu'ils soient présentés sous serment, par affidavit ou autrement et qu'ils soient ou seraient admissibles ou non devant un tribunal judiciaire.

Pouvoirs d'inspection

320 (1) Le commissaire qui effectue un examen en vertu de l'article 317 ou 318 peut, sans mandat ni ordonnance d'un tribunal, pénétrer dans des locaux et les inspecter conformément au présent article si les conditions suivantes sont réunies :

- a) il a des motifs raisonnables de croire ce qui suit :
 - (i) la personne qui fait l'objet de la plainte ou dont les activités sont examinées utilise les locaux à une fin liée à l'objet de la plainte ou de l'examen, selon le cas,
 - (ii) les locaux contiennent des livres, des dossiers ou d'autres documents qui se rapportent à l'objet de la plainte ou de l'examen, selon le cas;
- b) il effectue l'inspection dans le but d'établir si la personne a contrevenu à une disposition de la présente partie ou des règlements ou est sur le point de le faire.

Pouvoirs d'examen

(2) Le commissaire qui effectue un examen en vertu de l'article 317 ou 318 peut :

- a) exiger la production de livres, de dossiers ou d'autres documents qui se rapportent à l'objet de l'examen ou des copies d'extraits de ceux-ci;
- b) s'informer de tous renseignements, dossiers, pratiques relatives aux renseignements qu'a adoptés un fournisseur de services ou autres questions qui se rapportent à l'objet de l'examen;
- c) exiger la production, aux fins de l'inspection, de toute chose visée à l'alinéa b);
- d) avoir recours à tout dispositif ou système de stockage, de traitement ou de récupération des données appartenant à la personne qui fait l'objet de l'enquête afin de produire un dossier sous une forme lisible à partir de livres, de dossiers ou d'autres documents qui se rapportent à l'objet de l'examen;
- e) examiner ou copier, dans les locaux où il a pénétré, les livres, dossiers ou documents que produit une personne, s'il paie les droits raisonnables que peut exiger le fournisseur de services ou la personne qui fait l'objet de l'examen pour recouvrer ses coûts.

Accès à un logement

(3) Le commissaire ne doit pas, sans le consentement de l'occupant, exercer le pouvoir de pénétrer dans un lieu utilisé comme logement, si ce n'est sous l'autorité d'un mandat de perquisition décerné en vertu du paragraphe (4).

Mandat de perquisition

(4) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment ou affirmation solennelle, qu'il existe des motifs raisonnables de croire qu'il est nécessaire de pénétrer dans un lieu utilisé comme logement pour faire enquête sur une plainte qui fait l'objet d'un examen en vertu de l'article 317 ou 318 peut décerner un mandat autorisant la personne qui y est nommée à y pénétrer.

Heures et manière d'accès

(5) Le commissaire n'exerce le pouvoir de pénétrer dans des locaux que lui confère le présent article que pendant les heures raisonnables pour ces locaux et seulement de manière à ne pas entraver des services qui y sont fournis à quiconque à ce moment-là.

Entrave interdite

(6) Nul ne doit entraver le commissaire dans l'exercice des pouvoirs que lui confère le présent article ni lui fournir des renseignements faux ou trompeurs.

Demande écrite

(7) La demande de livres, de dossiers ou de documents ou de copies d'extraits de ceux-ci visée au paragraphe (2) doit être formulée par écrit et comprendre un énoncé de la nature de ce qui doit être produit.

Aide obligatoire

(8) Si le commissaire exige la production d'une chose en vertu du paragraphe (2), quiconque en a la garde la produit et, dans le cas d'un document, lui fournit, sur demande, l'aide qui est raisonnablement nécessaire pour le produire sous une forme lisible, en recourant notamment à un dispositif ou système de stockage, de traitement ou de récupération des données.

Enlèvement de documents

(9) Si une personne produit des livres, des dossiers ou d'autres documents à son intention, sauf ceux nécessaires à la prestation courante de services à quiconque, le commissaire peut, après avoir donné un récépissé écrit à cet effet, les enlever et les examiner ou les copier, s'il n'est pas en mesure de le faire dans les locaux où il a pénétré.

Remise des documents

(10) Le commissaire examine ou copie les documents avec une diligence raisonnable et les remet promptement après l'avoir fait à la personne qui les a produits.

Admissibilité des copies

(11) La copie que le commissaire certifie comme étant une copie est admissible en preuve au même titre que l'original et a la même valeur probante que lui.

Réponses données sous serment

(12) Le commissaire qui effectue un examen en vertu de l'article 317 ou 318 peut, au moyen d'une assignation, de la même façon et dans la même mesure qu'une cour supérieure d'archives, exiger la comparution d'une personne devant lui et l'obliger à témoigner par écrit ou oralement sous serment ou affirmation solennelle.

Inspection d'un dossier sans consentement

(13) Malgré les paragraphes (2) et (12), le commissaire ne doit pas inspecter un dossier de renseignements personnels, en exiger la preuve ou s'informer à son égard sans le consentement du particulier que concernent les renseignements, sauf si :

- a) d'une part, il décide d'abord qu'il est raisonnablement nécessaire de le faire, sous réserve des conditions ou restrictions qu'il précise, notamment l'établissement d'un délai, afin d'effectuer l'examen et que l'intérêt public justifie de passer outre à l'obligation d'obtenir le consentement du particulier dans les circonstances;
- b) d'autre part, il fournit à la personne qui a la garde ou le contrôle du dossier devant être inspecté, ou de la preuve ou des renseignements devant faire l'objet de l'enquête, une déclaration énonçant la décision qu'il a prise en application de l'alinéa a), accompagnée d'un bref exposé écrit des motifs sur lesquels il s'est fondé pour le faire, ainsi que les restrictions et les conditions qu'il a précisées, le cas échéant.

Restriction

(14) Malgré le paragraphe 327 (1), le pouvoir de prendre une décision en vertu de l'alinéa (13) a) et d'approuver le bref exposé écrit des motifs visé à l'alinéa (13) b) ne peut être délégué qu'à un commissaire adjoint.

Documents privilégiés

(15) Les documents ou les choses que produit une personne au cours d'un examen sont privilégiés comme s'il s'agissait d'une instance devant un tribunal.

Protection

(16) Sauf à l'occasion du procès d'une personne par suite d'un parjure au moment de son propre témoignage sous serment, nulle déclaration faite ou réponse donnée par cette personne ou une autre personne au cours d'un examen effectué par le commissaire n'est admissible en preuve devant un tribunal, dans le cadre d'une enquête, ou au cours d'une instance. Aucun témoignage rendu en cours d'instance devant le commissaire ne peut servir de preuve contre qui que ce soit.

Protection en vertu de la loi fédérale

(17) Le commissaire informe quiconque fait une déclaration ou donne une réponse au cours de l'examen qu'il effectue du droit que lui confère l'article 5 de la *Loi sur la preuve au Canada* de s'opposer à répondre à une question.

Observations

(18) Le commissaire donne à la personne qui a porté plainte, à celle qui fait l'objet de la plainte et à toute autre personne intéressée l'occasion de lui présenter des observations.

Représentant

(19) La personne à qui est donnée l'occasion de présenter des observations au commissaire peut être représentée par un avocat ou par une autre personne.

Accès aux observations

(20) Le commissaire peut permettre à une personne d'être présente lors de la présentation d'observations devant lui par une autre personne ou d'avoir accès à ces observations, sauf si cela risquerait de révéler :

- a) la teneur d'un dossier de renseignements personnels au sujet duquel un fournisseur de services invoque son droit de rejeter une demande d'accès présentée en vertu de l'article 313;
- b) des renseignements personnels auxquels un particulier n'a pas le droit de demander accès en vertu de l'article 313.

Attestation de la nomination

(21) Si le commissaire ou un commissaire adjoint a délégué les pouvoirs que lui confère le présent article à un des fonctionnaires ou employés du commissaire, le fonctionnaire ou l'employé qui exerce ces pouvoirs présente, sur demande, le certificat de délégation signé par le commissaire ou le commissaire adjoint, selon le cas.

Pouvoirs du commissaire

321 (1) Après avoir effectué un examen en vertu de l'article 317 ou 318, le commissaire peut :

- a) si l'examen se rapporte à une plainte au sujet d'une demande d'accès à un dossier de renseignements personnels qu'a présentée un particulier en vertu du paragraphe 313 (1), rendre une ordonnance enjoignant au fournisseur de services faisant l'objet de la plainte de donner au particulier l'accès au dossier demandé;
- b) si l'examen se rapporte à une plainte au sujet d'une demande de rectification d'un dossier de renseignements personnels qu'a présentée un particulier en vertu du paragraphe 315 (2), rendre une ordonnance enjoignant au fournisseur de services faisant l'objet de la plainte d'apporter la rectification demandée;
- c) par ordonnance, enjoindre à toute personne dont il a examiné les activités de s'acquitter d'une obligation imposée par la présente partie ou les règlements;
- d) par ordonnance, enjoindre à toute personne dont il a examiné les activités de cesser de recueillir, d'utiliser ou de divulguer des renseignements personnels si, selon lui, elle le fait ou est sur le point de le faire contrairement à la présente partie ou aux règlements ou à un accord conclu en application de la présente partie;
- e) par ordonnance, enjoindre à toute personne dont il a examiné les activités d'éliminer les dossiers de renseignements personnels qu'elle a, selon lui, recueillis, utilisés ou divulgués contrairement à la présente partie ou aux règlements ou à un accord conclu en application de la présente partie, mais uniquement s'il est raisonnable de s'attendre à ce que l'élimination de ces dossiers ne nuise pas à la prestation de services à un particulier;
- f) par ordonnance, enjoindre à tout fournisseur de services dont il a examiné les activités de modifier, de cesser ou de ne pas mettre en oeuvre les pratiques relatives aux renseignements que le commissaire précise, si ces pratiques contreviennent, selon lui, à la présente partie ou aux règlements;
- g) par ordonnance, enjoindre à tout fournisseur de services dont il a examiné les activités de mettre en oeuvre les pratiques relatives aux renseignements que le commissaire précise, si ces pratiques sont, selon lui, raisonnablement nécessaires pour assurer la conformité à la présente partie et aux règlements;
- h) par ordonnance, enjoindre à quiconque est un mandataire ou un employé d'un fournisseur de services dont il a examiné les activités et à qui une ordonnance rendue en vertu d'un des alinéas a) à g) enjoint de prendre ou non une mesure, de prendre ou non la mesure s'il est, selon lui, nécessaire de rendre l'ordonnance contre le mandataire ou l'employé pour faire en sorte que le fournisseur de services se conforme à l'ordonnance rendue contre lui;
- i) présenter des commentaires et des recommandations sur l'incidence qu'ont sur la vie privée les questions qui font l'objet de l'examen.

Conditions de l'ordonnance

(2) L'ordonnance que rend le commissaire en vertu du paragraphe (1) peut contenir les conditions qu'il estime appropriées.

Copie de l'ordonnance

(3) Le commissaire remet aux personnes et entités suivantes une copie des commentaires ou des recommandations qu'il présente ou des ordonnances qu'il rend en vertu du paragraphe (1), y compris les motifs de l'ordonnance :

- a) le plaignant et la personne qui fait l'objet de la plainte, s'il a présenté les commentaires ou les recommandations ou rendu l'ordonnance après avoir examiné une plainte en vertu de l'article 317;
- b) la personne dont il a examiné les activités, s'il a présenté les commentaires ou les recommandations ou rendu l'ordonnance après avoir effectué un examen en vertu de l'article 318;
- c) toutes les autres personnes auxquelles s'adresse l'ordonnance;
- d) l'entité ou les entités qui ont légalement le droit de réglementer ou d'examiner les activités du fournisseur de services auquel s'adresse l'ordonnance ou auquel se rapportent les commentaires ou les recommandations;
- e) toute autre personne qu'il estime appropriée.

Aucune ordonnance

(4) S'il ne rend pas d'ordonnance en vertu du paragraphe (1) après avoir effectué un examen en vertu de l'article 317 ou 318, le commissaire donne au plaignant, le cas échéant, et à la personne dont il a examiné les activités un avis indiquant les motifs sur lesquels il s'est fondé pour ne pas rendre d'ordonnance.

Appel d'une ordonnance

322 (1) La personne visée par une ordonnance que rend le commissaire en vertu de l'un ou l'autre des alinéas 321 (1) c) à h) peut en interjeter appel devant la Cour divisionnaire sur une question de droit conformément aux règles de pratique en déposant un avis d'appel dans les 30 jours qui suivent la réception d'une copie de l'ordonnance.

Certificat du commissaire

(2) Dans le cadre d'un appel interjeté en vertu du présent article, le commissaire certifie ce qui suit à la Cour divisionnaire :

- a) l'ordonnance et un énoncé des motifs sur lesquels il s'est fondé pour la rendre;
- b) le dossier de toutes les audiences qu'il a tenues en effectuant l'examen sur lequel l'ordonnance est fondée;
- c) toutes les observations écrites qu'il a reçues avant de rendre l'ordonnance;
- d) tous les autres documents qu'il estime pertinents concernant l'appel.

Caractère confidentiel des renseignements

(3) Dans le cadre d'un appel interjeté en vertu du présent article, le tribunal peut prendre des précautions afin d'éviter que lui-même ou une personne ne divulgue des renseignements personnels concernant un particulier, notamment, lorsque cela est approprié, la réception d'observations sans préavis, la tenue d'audiences à huis clos ou l'apposition d'un sceau sur les dossiers du greffe.

Ordonnance du tribunal

(4) Lorsqu'il entend un appel en vertu du présent article, le tribunal peut, par ordonnance :

- a) enjoindre au commissaire de prendre les décisions et les mesures qu'il est autorisé à prendre en vertu de la présente partie et que le tribunal estime appropriées;
- b) si cela est nécessaire, modifier ou annuler l'ordonnance du commissaire.

Conformité

(5) Le commissaire se conforme à l'ordonnance du tribunal.

Exécution de l'ordonnance

323 L'ordonnance rendue par le commissaire en vertu de la présente partie et devenue définitive en raison de l'absence de tout droit d'appel additionnel peut être déposée auprès de la Cour supérieure de justice. Un tel dépôt lui confère le même caractère exécutoire qu'un jugement ou une ordonnance de ce tribunal.

Nouvelle ordonnance du commissaire

324 (1) Après avoir effectué un examen en vertu de l'article 317 ou 318 et rendu une ordonnance en vertu du paragraphe 321 (1), le commissaire peut annuler ou modifier l'ordonnance ou en rendre une nouvelle en vertu de ce paragraphe s'il prend connaissance de nouveaux faits se rapportant à l'objet de l'examen ou s'il survient un changement important dans les circonstances entourant cet objet.

Circonstances

(2) Le commissaire peut exercer les pouvoirs visés au paragraphe (1) même si l'ordonnance qu'il annule ou modifie a été déposée auprès de la Cour supérieure de justice en vertu de l'article 323.

Copie de l'ordonnance

(3) Lorsqu'il rend une nouvelle ordonnance en vertu du paragraphe (1), le commissaire en remet une copie aux personnes ou entités visées aux alinéas 321 (3) a) à e) et y joint un avis indiquant ce qui suit :

- a) les motifs sur lesquels il s'est fondé pour rendre l'ordonnance;
- b) si l'ordonnance a été rendue en vertu de l'un ou l'autre des alinéas 321 (1) c) à h), une déclaration selon laquelle les personnes visées par l'ordonnance disposent du droit d'appel visé au paragraphe (4).

Appel

(4) La personne visée par une ordonnance qu'annule, modifie ou rend le commissaire en vertu de l'un ou l'autre des alinéas 321 (1) c) à h) peut en interjeter appel devant la Cour divisionnaire sur une question de droit conformément aux règles de pratique en déposant un avis d'appel dans les 30 jours qui suivent la réception d'une copie de l'ordonnance. Les paragraphes 322 (2) à (5) s'appliquent alors à l'appel.

Dommages-intérêts pour violation de la vie privée

325 (1) Si le commissaire a, en vertu de la présente partie, rendu une ordonnance qui est devenue définitive en raison de l'absence de tout droit d'appel additionnel, une personne qu'elle vise peut introduire devant la Cour supérieure de justice une instance en recouvrement de dommages-intérêts pour le préjudice réel qu'elle a subi par suite d'une contravention à la présente partie ou aux règlements.

Idem

(2) Si une personne a été reconnue coupable d'une infraction à la présente partie et que la déclaration de culpabilité est devenue définitive en raison de l'absence de tout droit d'appel additionnel, une personne touchée par la conduite qui a donné lieu à l'infraction peut introduire devant la Cour supérieure de justice une instance en recouvrement de dommages-intérêts pour le préjudice réel qu'elle a subi du fait de la conduite.

Dommages moraux

(3) Si, dans une instance visée au paragraphe (1) ou (2), la Cour supérieure de justice établit que le préjudice subi par le demandeur a été causé par une contravention ou une infraction, selon le cas, que les défendeurs ont commise volontairement ou avec insouciance, le tribunal peut inclure dans les dommages-intérêts qu'il adjuge des dommages moraux.

Pouvoirs généraux du commissaire

326 Le commissaire peut faire ce qui suit :

- a) entreprendre ou commander des recherches sur les questions qui ont une incidence sur la réalisation des objets de la présente partie;
- b) instituer des programmes d'information du public et fournir des renseignements relatifs à la présente partie ainsi qu'au rôle et aux activités du commissaire;
- c) recevoir les observations du public relativement à l'application de la présente partie;
- d) sur demande d'un fournisseur de services, présenter des commentaires sur les pratiques relatives aux renseignements qu'a adoptées ou proposées le fournisseur de services;
- e) apporter son aide lors d'enquêtes qu'effectue ou de mesures semblables que prend quiconque exerce des fonctions semblables aux siennes en application des lois du Canada sauf que, lorsqu'il fournit une aide, il ne doit ni utiliser ni divulguer de renseignements qu'il a recueillis ou qui ont été recueillis pour lui en vertu de la présente partie;
- f) dans des circonstances appropriées, autoriser la collecte de renseignements personnels autrement que directement auprès du particulier qu'ils concernent.

Délégation par le commissaire

327 (1) Le commissaire peut, par écrit, déléguer l'un ou l'autre des pouvoirs ou fonctions que lui attribue la présente partie, y compris le pouvoir de rendre des ordonnances, à un de ses fonctionnaires ou employés ou à un commissaire adjoint.

Subdélégation par le commissaire adjoint

(2) Un commissaire adjoint peut, par écrit, déléguer l'un ou l'autre des pouvoirs ou fonctions qui lui ont été délégués en vertu du paragraphe (1) à d'autres fonctionnaires ou employés du commissaire, sous réserve des conditions et restrictions qu'il précise dans l'acte de délégation.

Restrictions : renseignements personnels

328 (1) Le commissaire et quiconque agit sous son autorité ne peuvent recueillir, utiliser ou conserver des renseignements personnels dans l'exercice des fonctions que leur attribue la présente partie que si aucun autre renseignement ne peut servir aux fins de la collecte, de l'utilisation ou de la conservation de ces renseignements et dans aucune autre circonstance.

Quantité de renseignements

(2) Le commissaire et quiconque agit sous son autorité ne doivent pas, dans l'exercice des fonctions que leur attribue la présente partie, recueillir, utiliser ou conserver plus de renseignements personnels qu'il n'est raisonnablement nécessaire pour permettre au commissaire d'exercer ses fonctions liées à la présente partie ou aux fins d'une instance introduite en vertu de celle-ci.

Confidentialité

(3) Le commissaire et quiconque agit sous son autorité ne doivent pas divulguer les renseignements qui sont portés à leur connaissance dans l'exercice des fonctions que leur attribue la présente partie, sauf si, selon le cas :

- a) la divulgation est exigée pour l'exercice de ces fonctions;
- b) les renseignements se rapportent à un fournisseur de services, la divulgation est faite à une entité qui a légalement le droit de réglementer ou d'examiner les activités du fournisseur de services et le commissaire ou un commissaire adjoint est d'avis que la divulgation est justifiée;

- c) le commissaire a obtenu les renseignements en application du paragraphe 320 (12) et la divulgation est exigée dans une poursuite pour infraction à l'article 131 du *Code criminel* (Canada) à l'égard d'un témoignage sous serment;
- d) la divulgation est faite au procureur général, les renseignements se rapportent à la commission d'une infraction à une loi ou à une loi du Canada et le commissaire est d'avis qu'il existe une preuve de l'infraction.

Idem

(4) Malgré le paragraphe (3), le commissaire et quiconque agit sous son autorité ne doivent pas divulguer l'identité d'une personne, sauf un plaignant visé au paragraphe 316 (1), qui a fourni des renseignements au commissaire et qui lui a demandé de garder son identité confidentielle, à moins que la divulgation soit nécessaire pour assurer la conformité à l'article 125 (obligation de déclarer le besoin de protection).

Renseignements : examen ou instance

(5) Le commissaire, dans un examen visé à l'article 317 ou 318, et un tribunal judiciaire ou administratif ou une autre personne, notamment le commissaire, dans une instance visée à l'article 325 ou au présent article, prennent toutes les précautions raisonnables afin d'éviter la divulgation de renseignements à l'égard desquels un fournisseur de services a le droit de refuser une demande d'accès présentée en vertu de l'article 313. Ces précautions peuvent comprendre, lorsque cela est approprié, la réception d'observations sans préavis et la tenue d'audiences à huis clos.

Témoins non contraignables

(6) Le commissaire et quiconque agit sous son autorité ne sont pas tenus de témoigner devant un tribunal ou lors d'une instance de nature judiciaire relativement à ce qui est porté à leur connaissance dans l'exercice des fonctions que leur attribue la présente partie et qu'il leur est interdit de divulguer en application du paragraphe (3) ou (4).

Immunité

329 Sont irrecevables les actions ou autres instances en dommages-intérêts introduites contre le commissaire ou quiconque agit sous son autorité :

- a) soit pour tout ce qui a été fait, relaté ou dit de bonne foi et dans l'exercice effectif ou censé tel des pouvoirs ou fonctions que leur attribue la présente partie;
- b) soit pour toute négligence ou tout manquement qu'ils auraient commis dans l'exercice de bonne foi des pouvoirs ou fonctions que leur attribue la présente partie.

INTERDICTIONS, IMMUNITÉ ET INFRACTIONS**Représailles interdites**

330 Nul ne doit congédier, suspendre, rétrograder, punir ou harceler une personne ou lui faire subir tout autre désavantage pour l'un ou l'autre des motifs suivants :

- a) la personne, agissant de bonne foi et se fondant sur des motifs raisonnables, a divulgué au commissaire qu'une autre personne a contrevenu à une disposition de la présente partie ou des règlements ou est sur le point de faire;
- b) la personne, agissant de bonne foi et se fondant sur des motifs raisonnables, a accompli ou fait part de son intention d'accomplir tout acte nécessaire pour empêcher une personne de contrevenir à une disposition de la présente partie ou des règlements;
- c) la personne, agissant de bonne foi et se fondant sur des motifs raisonnables, a refusé d'accomplir ou fait part de son intention de refuser d'accomplir tout acte qui est en contravention à une disposition de la présente partie ou des règlements;
- d) quelqu'un croit que la personne accomplira un des actes visés à l'alinéa a), b) ou c).

Immunité

331 (1) Sont irrecevables les actions ou autres instances en dommages-intérêts introduites contre un fournisseur de services ou toute autre personne :

- a) soit pour tout ce qui a été fait, relaté ou dit, de bonne foi et raisonnablement dans les circonstances, dans l'exercice effectif ou censé tel des pouvoirs ou fonctions que lui attribue la présente partie;
- b) soit pour toute négligence ou tout manquement qui était raisonnable dans les circonstances et qu'il aurait commis dans l'exercice de bonne foi des pouvoirs ou fonctions que lui attribue la présente partie.

Responsabilité de la Couronne

(2) Malgré les paragraphes 5 (2) et (4) de la *Loi sur les instances introduites contre la Couronne*, le paragraphe (1) du présent article ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par une personne visée au paragraphe (1).

Mandataire spécial

(3) La personne qui, au nom ou à la place d'un particulier, donne, refuse ou retire son consentement à la collecte, à l'utilisation ou à la divulgation de renseignements personnels concernant le particulier, ou qui présente une demande, donne une consigne ou prend une mesure quelconque n'est pas responsable des dommages qui en résultent si elle agit raisonnablement dans les circonstances, de bonne foi et conformément à la présente partie et aux règlements.

Droit de présumer de l'exactitude

(4) À moins qu'il ne soit pas raisonnable de le faire dans les circonstances, une personne a le droit de présumer exacte une affirmation faite par une autre personne concernant la collecte, l'utilisation ou la divulgation des renseignements, ou l'accès à ceux-ci, en application de la présente partie et selon laquelle l'autre personne, selon le cas :

- a) soit est autorisée à présenter une demande d'accès à un dossier de renseignements personnels en vertu du paragraphe 313 (1);
- b) soit est autorisée en vertu du paragraphe 301 (1), (2) ou (4) à consentir à la collecte, à l'utilisation ou à la divulgation de renseignements personnels concernant un autre particulier.

Infractions

332 (1) Est coupable d'une infraction quiconque, selon le cas :

- a) recueille, utilise ou divulgue volontairement des renseignements personnels en contravention à la présente partie ou aux règlements pris pour l'application de la présente partie;
- b) présente sous de faux prétextes, en vertu de la présente loi, une demande d'accès à un dossier de renseignements personnels ou de rectification d'un tel dossier;
- c) relativement à la collecte, à l'utilisation ou à la divulgation de renseignements personnels, ou à l'accès à un dossier de tels renseignements, fait une affirmation qu'il sait n'être pas véridique et selon laquelle, selon le cas :
 - (i) soit il est autorisé à consentir à la collecte, à l'utilisation ou à la divulgation de renseignements personnels concernant un autre particulier,
 - (ii) soit il a le droit d'avoir accès à un dossier de renseignements personnels en vertu de l'article 312;
- d) élimine un dossier de renseignements personnels dont le fournisseur de services a la garde ou le contrôle dans l'intention de se soustraire à une demande d'accès au dossier que le fournisseur a reçue en vertu du paragraphe 313 (1);
- e) élimine volontairement un dossier de renseignements personnels en contravention à l'article 309;
- f) omet volontairement de se conformer à l'alinéa 308 (2) a);
- g) entrave volontairement le commissaire ou une personne que l'on sait agir sous son autorité dans l'exercice de ses fonctions relativement à la présente partie;
- h) fait volontairement une fausse déclaration afin d'induire ou de tenter d'induire en erreur le commissaire ou une personne que l'on sait agir sous son autorité dans l'exercice de ses fonctions relativement à la présente partie;
- i) omet volontairement de se conformer à une ordonnance rendue par le commissaire ou par une personne que l'on sait agir sous son autorité relativement à la présente partie;
- j) contrevient à l'article 330.

Peine

(2) Quiconque est coupable d'une infraction prévue au paragraphe (1) est passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$.

Dirigeants et autres personnes

(3) Si une personne morale commet une infraction à la présente partie, chacun de ses dirigeants, membres, employés ou mandataires qui a autorisé l'infraction ou qui avait le pouvoir de l'empêcher mais s'est sciemment abstenu de le faire est partie à l'infraction, en est coupable et est passible, sur déclaration de culpabilité, de la peine prévue pour l'infraction, que la personne morale ait été ou non poursuivie ou déclarée coupable.

Interdiction de poursuivre

(4) Nul n'est passible de poursuite relativement à une infraction à la présente loi ou à toute autre loi pour s'être conformé à une exigence du commissaire relativement à la présente partie.

Consentement du procureur général

(5) Aucune poursuite relativement à une infraction prévue au paragraphe (1) ne doit être intentée sans le consentement du procureur général.

Juge qui préside

(6) La Couronne peut, par avis au greffier de la Cour de justice de l'Ontario, exiger qu'un juge provincial préside une instance relative à une infraction prévue au paragraphe (1).

Protection des renseignements

(7) Dans le cadre d'une poursuite intentée relativement à une infraction prévue au paragraphe (1) ou si des documents sont déposés auprès d'un tribunal en application des articles 158 à 160 de la *Loi sur les infractions provinciales* en ce qui concerne une enquête sur une infraction à la présente partie, le tribunal peut, à tout moment, prendre des précautions pour éviter qu'une personne ou lui-même ne divulgue des renseignements personnels. Il peut notamment :

- a) retirer les renseignements identificatoires concernant une personne dont les renseignements personnels sont visés dans un document;
- b) recevoir des observations sans préavis;
- c) tenir tout ou partie des audiences à huis clos;
- d) mettre sous scellé tout ou partie des dossiers du greffe.

Aucune prescription

(8) L'article 76 de la *Loi sur les infractions provinciales* ne s'applique pas à une poursuite intentée en application de la présente partie.

PARTIE XI DISPOSITIONS DIVERSES

Commission de révision des services à l'enfance et à la famille

333 (1) La Commission de révision des services à l'enfance et à la famille est prorogée sous le nom de Commission de révision des services à l'enfance et à la famille en français et de Child and Family Services Review Board en anglais.

Composition et fonctions

(2) La Commission se compose du nombre prescrit de membres nommés par le lieutenant-gouverneur en conseil et elle a les pouvoirs et les fonctions que lui attribuent la présente loi et les règlements.

Président et vice-présidents

(3) Le lieutenant-gouverneur en conseil peut nommer un membre de la Commission à la présidence et un ou plusieurs membres à la vice-présidence.

Quorum

(4) Le nombre prescrit de membres de la Commission constitue le quorum.

Rémunération

(5) Le président, les vice-présidents et les autres membres de la Commission reçoivent la rémunération que fixe le lieutenant-gouverneur en conseil. Ils ont droit au remboursement des frais de déplacement et de séjour raisonnables qu'ils doivent nécessairement engager lorsqu'ils assistent à des réunions ou participent d'une autre façon aux travaux de la Commission.

Vérifications de dossiers de police

334 Le lieutenant-gouverneur en conseil peut, par règlement, exiger des personnes suivantes qu'elles fournissent une vérification de dossier de police les concernant à toute autre personne ou à tout organisme conformément aux règlements :

1. La personne qui fournit ou reçoit des services sous le régime de la présente loi.
2. La personne qui réside dans les locaux où des services sont fournis ou reçus sous le régime de la présente loi, y est employée ou y fait du bénévolat.
3. Toute autre personne prescrite.

Demande de vérifications de dossiers de police

335 Une société peut, dans les circonstances prescrites ou à une fin prescrite, demander à la Police provinciale de l'Ontario, à un corps de police municipal ou à une entité prescrite de procéder à des vérifications de dossiers de police ou de lui fournir d'autres renseignements prescrits.

Examen de la Loi

336 (1) Le ministre examine périodiquement la présente loi ou les dispositions de celle-ci qu'il précise.

Début de l'examen

(2) Le ministre informe le public de la date de début de l'examen prévu au présent article et des dispositions de la présente loi qui font l'objet de l'examen.

Consultation auprès d'enfants et d'adolescents

(3) Le ministre consulte des enfants et des adolescents lorsqu'il effectue un examen en application du présent article.

Rapport écrit

(4) Le ministre prépare un rapport écrit, dans un langage clair, sur l'examen, y compris les questions visées aux articles 337 et 338, et le met à la disposition du public.

Période d'examen

(5) Le premier examen est mené à terme et le rapport mis à la disposition du public dans les cinq ans du jour de l'entrée en vigueur du présent article.

Examens subséquents

(6) Chaque examen subséquent est mené à terme et le rapport mis à la disposition du public dans les cinq ans du jour de la mise à disposition du public du rapport de l'examen précédent.

Examen abordant les droits des enfants et des adolescents

337 Chaque examen de la présente loi aborde les droits des enfants et des adolescents énumérés à la partie II.

Examen abordant les questions touchant les Premières Nations, les Inuits et les Métis

338 Chaque examen de la présente loi aborde les questions suivantes :

1. L'autre objet de la Loi énoncé à la disposition 6 du paragraphe 1 (2), afin d'évaluer les progrès qui ont été accomplis en collaboration avec les Premières Nations, les Inuits et les Métis en vue de réaliser cet objet.
2. Les dispositions imposant des obligations aux sociétés lorsqu'elles fournissent des services à une personne inuite, métisse ou de Premières Nations ou des dispositions concernant des enfants inuits, métis ou de Premières Nations, afin d'assurer que les sociétés se conforment à ces dispositions.

**PARTIE XII
RÈGLEMENTS****Dispositions générales****Règlements du lieutenant-gouverneur en conseil**

339 (1) Pour l'application de la présente loi, le lieutenant-gouverneur en conseil peut, par règlement :

1. prescrire et régir un mode de règlement des différends, conformément au principe de Jordan, pour résoudre les différends intergouvernementaux et intragouvernementaux à l'égard des services fournis sous le régime de la présente loi;
2. prescrire d'autres services comme étant des services au sens de la présente loi;
3. prescrire les pouvoirs et fonctions supplémentaires des directeurs et des superviseurs de programme;
4. prescrire d'autres personnes et entités comme étant des fournisseurs de services;
5. régir l'utilisation de la contention physique sous le régime de la présente loi, notamment prescrire des normes et des protocoles applicables à son utilisation, exiger des fournisseurs de services qu'ils élaborent des politiques régissant son utilisation, et prescrire les dispositions qui doivent être incluses dans ces politiques et celles qui ne peuvent pas l'être;
6. régir l'utilisation de contentions mécaniques sous le régime de la présente loi, notamment prescrire des normes et des protocoles applicables à leur utilisation;
7. prescrire et régir, d'une part, un protocole interne applicable à la présentation de plaintes aux fournisseurs de services, à l'exception des plaintes visées à l'article 18 ou 119 et, d'autre part, un examen externe par une entité déterminée de catégories déterminées de plaintes;
8. soustraire un fournisseur de services, un organisme responsable ou un service, ou une catégorie de ceux-ci, à l'application d'une disposition ou d'une exigence de la présente loi ou des règlements pendant une ou plusieurs périodes déterminées;
9. définir tout terme utilisé dans la présente loi qui n'y est pas déjà défini et préciser davantage le sens d'un terme utilisé dans la présente loi qui y est déjà défini;

10. prescrire ou prévoir autrement tout ce que la présente loi exige ou permet de prescrire ou de prévoir autrement dans les règlements, y compris régir tout ce qui doit ou peut être accompli conformément aux règlements, qui n'est pas déjà prévu par la présente partie, à l'exception de ce qui est prévu par ailleurs à la disposition 1 du paragraphe 347 (2);
11. régir les questions transitoires pouvant découler de l'édiction de la présente loi ou de l'abrogation de l'ancienne loi.

Incompatibilité

(2) Les règlements pris en vertu de la disposition 11 du paragraphe (1) l'emportent sur toute disposition incompatible de la présente loi ou des règlements.

Règlements du ministre

(3) Pour l'application de la présente loi, le ministre peut, par règlement :

1. prescrire des normes et mesures de rendement à l'égard de la prestation de services à des enfants recevant des soins, y compris prescrire un processus pour établir la nature des normes et mesures de rendement, et mettre en oeuvre les normes et mesures de rendement prescrites;
2. régir l'établissement des bandes et des communautés inuites, métisses ou de Premières Nations auxquelles un enfant inuit, métis ou de Premières Nations s'identifie;
3. régir la manière dont les fournisseurs de services, lorsqu'ils prennent des décisions à l'égard d'un enfant, doivent tenir compte de la race de l'enfant, de son ascendance, de son lieu d'origine, de sa couleur, de son origine ethnique, de sa citoyenneté, de la diversité de sa famille, de son handicap, de sa croyance, de son sexe, de son orientation sexuelle, de son identité sexuelle et de l'expression de son identité sexuelle afin de réaliser l'objet énoncé à la sous-disposition 3 iii du paragraphe 1 (2);
4. régir la manière dont les fournisseurs de services, lorsqu'ils prennent des décisions à l'égard d'un enfant, doivent tenir compte des besoins de l'enfant sur les plans culturel et linguistique afin de réaliser l'objet énoncé à la sous-disposition 3 iv du paragraphe 1 (2);
5. régir la manière dont les fournisseurs de services, lorsqu'ils prennent des décisions à l'égard d'un enfant, doivent tenir compte des différences régionales afin de réaliser l'objet énoncé à la disposition 4 du paragraphe 1 (2);
6. régir la manière dont les fournisseurs de services, dans le cas d'un enfant inuit, métis ou de Premières Nations, doivent tenir compte de sa culture, de son patrimoine, de ses traditions, des liens qui l'unissent à la communauté et du concept de la famille élargie afin de réaliser l'objet énoncé à la disposition 6 du paragraphe 1 (2);
7. prescrire les personnes qui peuvent représenter des enfants et leurs parents afin d'aider les fournisseurs de services à tenir compte de l'ensemble des caractéristiques et besoins d'un enfant, et de tous les autres facteurs visés aux sous-dispositions 3 iii et iv et aux dispositions 4 et 6 du paragraphe 1 (2) pour réaliser les objets énoncés à ces sous-dispositions et dispositions, traiter de la manière dont ces personnes doivent être choisies ou nommées, et régir leurs rôles et fonctions en tant que représentants;
8. prescrire la marche à suivre et les conditions d'admissibilité relatives à l'admission d'enfants et d'autres personnes dans les lieux où sont fournis des services et à leur mise en congé;
9. régir le placement en établissement d'enfants et prescrire les marches à suivre applicables aux placements, aux mises en congé, aux évaluations et à la gestion de cas;
10. exiger que les placements en établissement effectués par les fournisseurs de services, ou auprès d'eux, soient conformes à des ententes écrites, et prescrire la forme et le contenu de ces ententes;
11. prescrire les qualités requises, les pouvoirs et les fonctions des personnes qui participent à la prestation de services;
12. prescrire les catégories de personnes participant ou devant participer à la prestation de services qui doivent suivre une formation et prescrire cette formation ainsi que les circonstances dans lesquelles elle doit être suivie;
13. prescrire les services médicaux et autres se rapportant aux soins et traitements offerts aux enfants et à d'autres personnes, ou les services accessoires à ces soins et traitements, qui doivent être fournis dans les lieux où sont fournis des services, et exiger qu'ils le soient;
14. permettre que les avis, ordres, arrêtes, ordonnances et autres documents qui, en application de la présente loi, doivent être remis par écrit soient plutôt remis sur support électronique ou sous une autre forme, sous réserve des conditions ou restrictions précisées;
15. régir le mode de remise ou de signification des avis, ordres, arrêtes, ordonnances et autres documents ou choses en application de la présente loi, notamment prévoir les règles régissant le moment où ceux-ci sont réputés reçus;
16. prescrire des formulaires et prévoir les modalités de leur emploi;
17. modifier toute disposition ou exigence de la présente loi ou des règlements pour répondre aux besoins des personnes handicapées au sens de la *Loi de 2005 sur l'accessibilité pour les personnes handicapées de l'Ontario*.

Règlements : Partie II (Droits des enfants et des adolescents)

340 Pour l'application de la partie II, le lieutenant-gouverneur en conseil peut, par règlement :

1. régir la manière dont les fournisseurs de services doivent respecter les droits des enfants et des adolescents énoncés dans la présente loi et en faire la promotion;
2. prescrire des intervalles pour l'application de l'article 9;
3. régir le protocole interne applicable à la présentation de plaintes qui doit être mis au point en application de l'article 18;
4. élaborer des règles d'examen en vertu de l'article 19;
5. prescrire une méthode de règlement extrajudiciaire des différends pour l'application du paragraphe 17 (1) ainsi qu'un processus de règlement extrajudiciaire des différends autre que celui établi par les bandes et les communautés et visé au paragraphe 17 (2) pour l'application de ce paragraphe.

Règlements : Partie III (Financement et responsabilisation)**Règlements du ministre**

341 (1) Pour l'application de la partie III, le ministre peut, par règlement :

1. prescrire des entités auxquelles des fonds peuvent être alloués pour l'application de l'alinéa 25 c);
2. prescrire d'autres fins pour lesquelles des fonds peuvent être alloués en vertu de l'alinéa 25 c);
3. prescrire les renseignements que doit contenir ou exclure le sommaire d'un ordre mis à la disposition du public en application de l'alinéa 33 (4) b) ou 43 (4) b);
4. prescrire les normes de service et les modalités que les sociétés doivent respecter pour l'application du paragraphe 35 (2);
5. régir la gestion et le fonctionnement des sociétés;
6. prescrire un système pour calculer le montant des paiements prévus au paragraphe 40 (1);
7. prescrire les conditions qui doivent ou peuvent être incluses dans les ententes de responsabilisation pour l'application du paragraphe 41 (4);
8. régir la prestation de services;
9. régir les locaux d'hébergement, les installations et l'équipement qui doivent être fournis :
 - i. dans les bâtiments où sont fournis des services,
 - ii. dans le cadre de la prestation de services;
10. régir l'ouverture, la gestion, le fonctionnement, l'emplacement, la construction, l'aménagement et la rénovation des bâtiments où sont fournis des services;
11. prescrire les livres et les dossiers que les sociétés doivent tenir, ainsi que les états qu'elles doivent dresser, les rapports qu'elles doivent faire et les budgets qu'elles doivent présenter au ministre, et prescrire les méthodes, délais et modalités applicables;
12. exiger des fournisseurs de services qu'ils tiennent des dossiers et prescrire la forme et le contenu de ces dossiers;
13. prévoir le recouvrement, par une agence ou le ministre, auprès de la ou des personnes qui sont ou ont été responsables d'un enfant, ou de la succession de cette ou ces personnes, des montants que l'agence a payés pour l'entretien de l'enfant et les soins qui lui ont été fournis, et prescrire les circonstances dans lesquelles un tel recouvrement peut être effectué ainsi que ses modalités;
14. prévoir le recouvrement des paiements faits aux sociétés en vertu de la partie III et des règlements;
15. régir la construction, l'aménagement, la rénovation, l'agrandissement, l'ameublement et l'équipement des foyers dont les sociétés assurent le fonctionnement ou la surveillance, à l'exception des foyers pour enfants au sens de la partie IX (Permis d'établissement) où des soins en établissement sont fournis aux enfants;
16. prescrire les rapports qui doivent être présentés et les renseignements qui doivent être fournis en application de l'article 56 de même que leur forme et les intervalles auxquels ils doivent être présentés ou fournis;
17. prescrire les entités ainsi que les rapports et les renseignements qui doivent leur être fournis de même que la manière dont ils doivent l'être pour l'application de l'article 57;
18. prescrire les renseignements et la manière de les mettre à la disposition du public pour l'application de l'article 58;
19. prescrire d'autres personnes auxquelles un superviseur de programme doit remettre un rapport d'inspection pour l'application de l'alinéa 61 (1) c);

20. prescrire des règles pour établir si un enfant réside dans le territoire de compétence d'un comité consultatif;
21. prescrire les règles de pratique et de procédure que les comités consultatifs doivent suivre de même que leurs obligations supplémentaires.

Normes de service

(2) Un règlement pris en vertu de la disposition 4 du paragraphe (1) peut :

- a) soustraire une ou plusieurs sociétés à tout ce qui est prescrit en vertu de cette disposition;
- b) prescrire des normes de service qui ne s'appliquent qu'à une ou plusieurs sociétés prévues par les règlements;
- c) prescrire les modalités que ne doivent suivre qu'une ou plusieurs sociétés prévues par les règlements.

Montants des paiements aux sociétés

(3) Un règlement pris en vertu de la disposition 6 du paragraphe (1) s'applique, s'il comprend une disposition à cet effet, à une période antérieure à son dépôt.

Règlements du lieutenant-gouverneur en conseil

(4) Pour l'application de la partie III, le lieutenant-gouverneur en conseil peut, par règlement :

1. régir le transfert et la cession des éléments d'actif des fournisseurs de services et des organismes responsables pour l'application de l'article 29;
2. établir des catégories d'organismes responsables pour l'application du paragraphe 30 (4) et en traiter;
3. prescrire les fonctions de chaque catégorie d'organismes responsables pour l'application du paragraphe 30 (5);
4. prescrire les questions au sujet desquelles le ministre peut donner des directives pour l'application du paragraphe 32 (2);
5. prescrire d'autres fonctions d'une société pour l'application de l'alinéa 35 (1) g);
6. traiter de la composition des conseils d'administration des sociétés, notamment prescrire les qualités requises et les critères d'admissibilité des membres du conseil d'administration, et exiger des membres des conseils qu'ils suivent des programmes de formation et prescrire ces programmes;
7. prescrire le nombre de représentants des Premières Nations, des Inuits ou des Métis devant faire partie du conseil d'administration des sociétés, de même que le mode de leur nomination et la durée de leur mandat, pour l'application du paragraphe 36 (1);
8. prescrire les dispositions qui doivent être incluses dans les règlements administratifs des sociétés pour l'application du paragraphe 36 (3);
9. prévoir la création, la composition et les pouvoirs et fonctions du bureau du conseil d'administration d'une société, et fixer son quorum;
10. prescrire les droits qui peuvent être exigés au titre des services, ainsi que les conditions applicables;
11. traiter des questions qui se rapportent à une fusion visée à l'article 47 ou à un arrêté du ministre pris en vertu de l'article 48, ou qui en découlent, notamment des règles régissant les ordonnances du tribunal rendues à l'égard d'une société;
12. prescrire des motifs pour l'application du sous-alinéa 60 (2) c) (ii).

Restructuration

(5) Un règlement pris en vertu de la disposition 11 du paragraphe (4) l'emporte sur toute disposition incompatible de la *Loi sur les personnes morales* ou des règlements pris en vertu de cette loi.

Règlements : Partie IV (Services à l'enfance et à la famille — Premières Nations, Inuits et Métis)

Règlements du lieutenant-gouverneur en conseil

342 (1) Pour l'application de la partie IV, le lieutenant-gouverneur en conseil peut, par règlement :

1. modifier ou exclure l'application de toute disposition ou exigence de la présente loi ou des règlements à un fournisseur de services aux familles et aux enfants inuits, métis ou de Premières Nations, à une bande ou une communauté inuite, métisse ou de Premières Nations, ou à des personnes ou catégories de personnes précises, y compris des personnes qui offrent aux enfants des soins conformes aux traditions, et prévoir l'application d'autres dispositions ou exigences à la place ou en plus des dispositions ou des exigences de la présente loi et des règlements.

Règlements du ministre

(2) Pour l'application de la partie IV, le ministre peut, par règlement :

1. régir le processus à suivre pour dresser des listes de communautés inuites, métisses ou de Premières Nations dans un règlement pris en vertu du paragraphe 68 (1), y compris les modalités que doit suivre une communauté et les exigences auxquelles elle doit satisfaire;
2. prescrire les questions devant faire l'objet de consultations entre, d'une part, les sociétés, les personnes ou les entités et, d'autre part, les bandes ou communautés inuites, métisses ou de Premières Nations pour l'application de l'alinéa 72 i);
3. régir les consultations avec les bandes et les communautés inuites, métisses ou de Premières Nations prévues aux articles 72 et 73, et prescrire les modalités que doivent suivre les sociétés, les personnes et les entités de même que leurs fonctions lors de ces consultations;
4. prescrire des services et des pouvoirs pour l'application de l'article 73.

Règlements : Partie V (Protection de l'enfance)

Règlements du lieutenant-gouverneur en conseil

343 (1) Pour l'application de la partie V, le lieutenant-gouverneur en conseil peut, par règlement :

1. prescrire des autorités législatives hors du Canada dont les ordonnances rendues par un tribunal peuvent être reconnues comme ordonnances extraprovinciales de protection d'un enfant, et les conditions d'une telle reconnaissance;
2. prescrire les circonstances et les situations dans lesquelles un jeune de 16 ou 17 ans peut être considéré comme ayant besoin de protection pour l'application de l'alinéa 74 (2) o);
3. régir l'exercice des pouvoirs d'entrer dans des locaux énoncés aux paragraphes 81 (6) et (10) et 86 (1) et (2);
4. prescrire des méthodes de règlement extrajudiciaire des différends pour l'application de l'article 95;
5. confier à un directeur des pouvoirs, fonctions ou obligations de la Couronne en ce qui concerne les enfants confiés aux soins d'une société de façon prolongée en application d'une ordonnance rendue en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c);
6. prescrire des critères supplémentaires relativement aux circonstances dans lesquelles une évaluation peut être ordonnée en vertu de l'article 98, et régir la portée de l'évaluation et la forme du rapport d'évaluation visé à cet article;
7. traiter des demandes de révision présentées à la Commission en vertu du paragraphe 109 (8);
8. prescrire des règles de pratique et de procédure supplémentaires pour l'application du paragraphe 109 (11);
9. prescrire l'expérience ou les qualités requises qu'un membre de la Commission est tenu de posséder afin d'effectuer une révision en application du paragraphe 109 (9), 119 (6) ou 120 (5);
10. traiter de la présentation d'une plainte à une société en vertu du paragraphe 119 (1) ou à la Commission en vertu du paragraphe 119 (5) ou 120 (3);
11. prescrire des questions pour l'application de la disposition 2 du paragraphe 119 (5) et de la disposition 6 du paragraphe 120 (4);
12. prescrire les ordonnances supplémentaires que la Commission peut rendre pour l'application des alinéas 119 (10) d) et 120 (7) f);
13. prescrire des règles de pratique et de procédure applicables aux audiences que tient la Commission en vertu du paragraphe 119 (8) ou dans le cadre de la révision d'une plainte effectuée en application de l'article 120;
14. traiter de la forme des mandats décernés en vertu des articles 131 et 132 et de la marche à suivre pour demander, décerner, recevoir et déposer des mandats de différentes formes;
15. prescrire les modalités de présentation d'une demande de mandat en vertu de l'article 132, y compris celles qui ne consistent pas à présenter une dénonciation sous serment, établir les circonstances dans lesquelles ces modalités peuvent être utilisées et prévoir les exigences supplémentaires qui doivent être satisfaites en pareil cas;
16. traiter de la manière dont doit être tenu le registre visé au paragraphe 133 (5);
17. exiger la suppression d'un nom du registre visé au paragraphe 133 (5), ou la modification du registre, dans des circonstances précises, et préciser ces circonstances;
18. prescrire les règles de pratique et de procédure applicables aux audiences tenues en vertu de l'alinéa 134 (4) b).

Règlements du ministre

(2) Pour l'application de la partie V, le ministre peut, par règlement :

1. prescrire des exigences et des fins pour l'application de la définition de «préposé à la protection de l'enfance»;

2. traiter des modalités que doit suivre une société ou un fournisseur de services aux familles et aux enfants pour l'application du paragraphe 74 (4);
3. prescrire les dispositions supplémentaires qui doivent figurer dans une entente relative à des soins temporaires pour l'application de la disposition 7 du paragraphe 75 (10);
4. prescrire la manière de modifier une entente relative à des soins temporaires en vertu du paragraphe 75 (12);
5. prescrire les fonctions et obligations des sociétés ainsi que les droits et responsabilités des enfants à l'égard des ententes conclues en vertu de l'article 77 (ententes avec des jeunes de 16 et 17 ans), notamment les services et soutiens qui peuvent être fournis dans le cadre de ces ententes, prescrire des circonstances supplémentaires pour la conclusion de ces ententes et les dispositions qui doivent y figurer, et régir la modification et la résiliation de ces ententes;
6. régir la procédure d'examen des plaintes que les sociétés doivent suivre pour l'application du paragraphe 119 (2);
7. régir les ententes conclues en vertu de l'article 124, y compris prescrire les entités tenues de conclure de telles ententes, l'expiration, le renouvellement et la résiliation de ces ententes, les clauses qu'elles doivent comporter, les soins et le soutien qui doivent être fournis à des personnes en application de ces ententes, les conditions applicables à la prestation de ces soins et de ce soutien, et toute exception à l'exigence voulant qu'une entente soit conclue ou que des soins et du soutien soient fournis en vertu de l'article 124;
8. prescrire des services de soutien pour l'application de la disposition 3 du paragraphe 124 (1);
9. prescrire des circonstances et des situations pour l'application du paragraphe 125 (4);
10. traiter des évaluations qui doivent être effectuées en application du paragraphe 126 (1).

Règlements : Partie VI (Justice pour les adolescents)

344 Pour l'application de la partie VI, le lieutenant-gouverneur en conseil peut, par règlement :

1. régir l'ouverture, le fonctionnement, l'entretien, la gestion et l'utilisation de lieux de détention provisoire et de lieux de garde en milieu ouvert et en milieu fermé;
2. régir l'ouverture et le fonctionnement des locaux ouverts, exploités, maintenus ou désignés pour l'application de la *Loi sur le système de justice pénale pour les adolescents* (Canada), et traiter des locaux d'hébergement, de l'équipement et des services qui doivent y être fournis;
3. prescrire les fonctions supplémentaires :
 - i. des agents de probation,
 - ii. des directeurs provinciaux;
4. prescrire les fonctions des huissiers;
5. prescrire les qualités requises des agents de probation;
6. prescrire les fonctions supplémentaires des responsables des lieux de détention provisoire et des lieux de garde en milieu ouvert et en milieu fermé;
7. prescrire les rapports qui doivent être présentés et les renseignements qui doivent être fournis en application de l'article 147, de même que leur forme et les intervalles auxquels ils doivent être présentés ou fournis;
8. régir la conduite, la discipline, les droits et les privilèges des adolescents dans des lieux de détention provisoire et des lieux de garde en milieu ouvert ou en milieu fermé;
9. prescrire les protocoles d'admission d'adolescents dans des lieux de détention provisoire et des lieux de garde en milieu ouvert ou en milieu fermé ou dans des locaux où est fourni un service, de même que les protocoles de mise en congé de ces lieux ou locaux;
10. prescrire le nombre de membres de la Commission et le nombre de membres qui constitue le quorum;
11. prescrire les pouvoirs, les fonctions et les règles supplémentaires de la Commission;
12. régir l'exercice du pouvoir d'entrer dans un local en vertu du paragraphe 153 (5);
13. régir les perquisitions et les fouilles visées au paragraphe 155 (1);
14. prescrire les procédures de saisie et de disposition d'objets interdits trouvés pendant une perquisition ou une fouille;
15. traiter de toute question jugée nécessaire ou utile pour réaliser efficacement l'intention et l'objet de la partie VI.

Règlements : Partie VII (Mesures extraordinaires)

345 Pour l'application de la partie VII, le lieutenant-gouverneur en conseil peut, par règlement :

1. prescrire les protocoles d'admission de personnes à des programmes de traitement en milieu fermé de même que les protocoles de mise en congé;
2. prescrire des normes applicables aux programmes de traitement en milieu fermé;
3. régir les politiques relatives à l'utilisation de contentions mécaniques exigées par l'article 160, notamment prescrire les dispositions qui doivent être incluses et celles qui peuvent ne pas l'être;
4. prescrire des normes applicables aux pièces de désescalade sous clé;
5. prescrire la marche à suivre lorsqu'un enfant ou un adolescent est placé dans une pièce de désescalade sous clé ou qu'il en sort;
6. prescrire la fréquence des examens prévus au paragraphe 174 (6);
7. prescrire les normes et protocoles supplémentaires auxquels le fournisseur de services doit se conformer en application du paragraphe 174 (9);
8. prescrire les questions qui doivent faire l'objet d'un examen, ainsi que les rapports supplémentaires qui doivent être fournis en application de l'article 175;
9. prescrire des techniques comme techniques d'ingérence;
10. prescrire des médicaments, des combinaisons de médicaments ou des catégories de médicaments comme psychotropes.

Règlements : Partie VIII (Adoption et délivrance de permis relatifs à l'adoption)

346 (1) Pour l'application de la partie VIII, le lieutenant-gouverneur en conseil peut, par règlement :

1. désigner une personne ou un organisme pour exercer des pouvoirs et des fonctions à l'égard d'une adoption;
2. régir la personne ou l'organisme désigné en vertu de la disposition 1, y compris prescrire les pouvoirs et les fonctions de cette personne ou de cet organisme;
3. prescrire des critères pour l'application de la définition de «parent de naissance» au paragraphe 179 (1);
4. prescrire des questions pour l'application de l'alinéa 180 (4) b);
5. prescrire des circonstances particulières pour l'application du paragraphe 188 (9) (placement à l'extérieur du Canada);
6. régir les demandes de révision présentées en vertu du paragraphe 192 (3);
7. prescrire des règles de pratique et de procédure supplémentaires pour l'application du paragraphe 192 (7);
8. prescrire l'expérience ou les qualités requises qu'un membre de la Commission est tenu de posséder pour l'application du paragraphe 192 (8);
9. régir les modalités que doit suivre le directeur lorsqu'il effectue l'examen prévu au paragraphe 193 (3), les types de décisions et de directives qu'il est autorisé à prendre ou à donner après avoir effectué un examen, et les conséquences d'une décision ou d'une directive;
10. prescrire une méthode de règlement extrajudiciaire des différends pour l'application des paragraphes 198 (8) et 207 (9);
11. régir le placement d'enfants en vue de leur adoption;
12. prescrire des règles et des normes régissant le placement, par les titulaires de permis, d'enfants en vue de leur adoption;
13. régir les ordonnances de communication prévues sous le régime de la partie VIII;
14. prescrire des personnes pour l'application de l'alinéa 222 (3) d);
15. prescrire les pouvoirs et les fonctions d'un dépositaire désigné visé à l'article 223 et régir les honoraires qu'il peut demander relativement à l'exercice de ses pouvoirs et de ses fonctions;
16. régir la divulgation de renseignements en application de l'article 224 à un dépositaire désigné;
17. régir la divulgation de renseignements en application de l'article 225 par le ministre, une société, un titulaire de permis ou un dépositaire désigné;
18. établir et régir un mécanisme de révision ou d'appel des décisions du ministre, d'une société, d'un titulaire de permis ou d'un dépositaire désigné concernant une divulgation de renseignements en application de l'article 224 ou 225;
19. régir les droits qu'une société, un titulaire de permis ou un dépositaire désigné peut demander pour la divulgation de renseignements en application de l'article 224 ou 225;

20. régir l'inspection, le retrait ou la modification de renseignements liés à une adoption pour l'application de l'alinéa 227 (1) b);
21. soustraire un titulaire de permis ou une catégorie de titulaires de permis à tout ou partie des dispositions ou exigences de la partie VIII ou des règlements pris en vertu de cette partie, soit indéfiniment soit pour une période déterminée;
22. régir la délivrance, le renouvellement et l'expiration des permis, et prescrire les droits que l'auteur d'une demande doit acquitter pour l'obtention ou le renouvellement d'un permis;
23. prescrire les motifs justifiant le refus de délivrer un permis pour l'application de l'alinéa 231 c);
24. prescrire les motifs justifiant la révocation d'un permis ou le refus de le renouveler pour l'application de l'alinéa 232 e);
25. prescrire les dépenses qui peuvent être réclamées en vertu de l'alinéa 240 d) et les conditions en vertu desquelles elles peuvent l'être.

Fonctions de l'Autorité centrale

(2) Les définitions qui suivent s'appliquent au paragraphe (3).

«Autorité centrale» L'Autorité centrale désignée en vertu de l'alinéa 24 a) de la *Loi de 1998 sur l'adoption internationale*. («Central Authority»)

«Convention» La Convention sur la protection des enfants et la coopération en matière d'adoption internationale qui figure à l'annexe de la *Loi de 1998 sur l'adoption internationale*. («Convention»)

Idem

(3) Le lieutenant-gouverneur en conseil peut, par règlement, assigner les fonctions de l'Autorité centrale visées par la partie VIII à des autorités publiques, à des organismes agréés ou à des personnes conformément à l'article 22 de la Convention.

Règlements du ministre

(4) Pour l'application de la partie VIII, le ministre peut, par règlement :

1. prescrire la forme de l'affidavit du témoin à la signature pour l'application du paragraphe 180 (12);
2. prescrire le mode d'enregistrement des placements prévu au paragraphe 183 (7);
3. prescrire des personnes pour l'application du sous-alinéa 188 (3) b) (ii);
4. prescrire des personnes et des entités ainsi que les délais pour l'application de l'alinéa 238 b);
5. prescrire les livres et les dossiers que doivent tenir les titulaires de permis;
6. exiger des titulaires de permis et des auteurs d'une demande de permis ou de renouvellement d'un permis qu'ils fournissent des renseignements, des rapports et des états, et traiter de la manière dont ceux-ci doivent être fournis;
7. prévoir l'examen des dossiers des titulaires de permis;
8. régir les qualités requises des personnes employées par les titulaires de permis;
9. exiger des titulaires de permis qu'ils fournissent un cautionnement ou qu'ils présentent des lettres de crédit sous la forme et aux conditions prescrites et avec les garanties accessoires prescrites, prescrire la forme et les conditions de ces cautionnements et lettres de crédit et des garanties accessoires, et prévoir la réalisation des cautionnements et des lettres de crédit ainsi que la disposition du produit.

Règlements : Partie IX (Permis d'établissement)

Règlements du lieutenant-gouverneur en conseil

347 (1) Pour l'application de la partie IX, le lieutenant-gouverneur en conseil peut, par règlement :

1. prescrire d'autres foyers pour l'application de la disposition 3 de la définition de «foyer pour enfants» à l'article 243;
2. prescrire d'autres lieux pour l'application de la disposition 12 de la définition de «foyer pour enfants» à l'article 243;
3. prescrire les circonstances dans lesquelles un permis est exigé pour fournir des soins en établissement pour l'application de la sous-disposition 2 ii de l'article 244;
4. prescrire des circonstances pour l'application de l'article 251;
5. prescrire les questions à l'égard desquelles le ministre peut donner des directives pour l'application du paragraphe 252 (1);
6. régir les examens et les appels visés à l'article 260;

7. régir la délivrance, le renouvellement et l'expiration des permis et prescrire les droits que l'auteur d'une demande doit acquitter pour l'obtention ou le renouvellement d'un permis;
8. prescrire les motifs pouvant justifier le refus de délivrer un permis pour l'application de l'alinéa 261 f);
9. prescrire les motifs pouvant justifier la révocation d'un permis ou le refus de le renouveler pour l'application de l'alinéa 262 g);
10. prescrire d'autres pouvoirs et fonctions d'un inspecteur pour l'application du paragraphe 273 (3);
11. prescrire d'autres pouvoirs d'un inspecteur pour l'application de l'alinéa 276 (1) i);
12. prescrire les dispositions de la partie IX ou des règlements pour l'application de l'alinéa 280 (1) i);
13. prescrire les dispositions de la partie IX ou des règlements pour l'application de l'alinéa 280 (3) c).

Règlements du ministre

(2) Pour l'application de la partie IX, le ministre peut, par règlement :

1. prescrire ou prévoir autrement tout ce que la partie IX exige ou permet de prescrire ou de prévoir autrement dans les règlements, à l'exception de ce qui est visé au paragraphe (1) du présent article, y compris régir tout ce qui doit ou peut être accompli conformément aux règlements;
2. préciser et régir les catégories de permis qui peuvent être attribuées pour l'application de l'article 258;
3. régir la somme ou le mode de calcul de la somme que peut exiger un titulaire de permis au titre de la prestation de soins en établissement en vertu d'un permis à cet effet pour l'application de l'article 268, y compris régir les examens et les modifications apportées à la somme ou au mode de calcul, ainsi que les circonstances dans lesquelles un titulaire de permis peut exiger une somme différente de celle qu'il pourrait exiger autrement;
4. régir, d'une part, la gestion et le fonctionnement des foyers pour enfants et des autres lieux où sont fournis des soins en établissement en vertu d'un permis à cet effet et, d'autre part, les locaux d'hébergement, les installations, l'équipement et les services qui doivent y être fournis;
5. préciser et régir les normes et mesures de rendement à l'égard de la prestation de services dans les foyers pour enfants ou dans les autres lieux où sont fournis des soins en établissement en vertu d'un permis à cet effet, y compris les normes applicables à la qualité des soins et à la réactivité aux besoins culturels;
6. prescrire les livres et les dossiers que doivent tenir les titulaires de permis;
7. prescrire les qualités requises, les pouvoirs et les fonctions des personnes qui surveillent des enfants dans les foyers pour enfants et les autres lieux où sont fournis des soins en établissement en vertu d'un permis à cet effet;
8. prescrire les mesures de présélection applicables aux titulaires de permis, aux auteurs d'une demande de permis ou de renouvellement d'un permis et aux autres personnes qui fournissent des soins en établissement à des enfants dans les foyers pour enfants ou dans des lieux où sont fournis des soins en établissement en vertu d'un permis à cet effet;
9. régir le protocole d'admission d'enfants dans les foyers pour enfants ou les autres lieux où sont fournis des soins en établissement en vertu d'un permis à cet effet de même que le protocole de mise en congé;
10. exiger des titulaires de permis et des auteurs d'une demande de permis ou de renouvellement d'un permis qu'ils fournissent des renseignements, des rapports et des états, et traiter de la manière dont ceux-ci doivent être fournis.

Règlements : Partie X (Renseignements personnels)

348 Pour l'application de la partie X, le lieutenant-gouverneur en conseil peut, par règlement :

1. prescrire des personnes pour l'application de la disposition 2 du paragraphe 283 (2);
2. prescrire les autres ministres avec lesquels le ministre peut échanger des renseignements pour l'application du paragraphe 283 (5);
3. prescrire les exigences et restrictions se rapportant aux activités de recherche et d'analyse pour l'application du paragraphe 283 (7);
4. prescrire et régir les modes de remise des avis visés aux alinéas 283 (8) b) et 284 (3) b);
5. prescrire les fins de la collecte visées à l'article 284;
6. prescrire les fins liées à l'exercice des fonctions d'une société pour l'application de l'alinéa 288 (2) c), du sous-alinéa 291 (2) a) (ii) et du paragraphe 292 (3);
7. préciser les exigences auxquelles doit satisfaire une consigne expresse visée à l'alinéa 291 (1) a);
8. prescrire des exigences et des restrictions pour l'application des alinéas 288 (2) e), 291 (1) j) et k) et 292 (1) h) et des paragraphes 293 (2) et (3), 302 (10), 304 (1) et (4) et 305 (10);

9. prescrire des entités pour l'application de l'article 293;
10. prescrire des renseignements et des circonstances pour l'application du paragraphe 293 (4);
11. prescrire des exceptions et des exigences supplémentaires pour l'application du paragraphe 293 (9);
12. prescrire un organisme pour l'application des articles 302, 304 et 305;
13. prescrire des renseignements pour l'application du paragraphe 304 (2);
14. prescrire des personnes pour l'application du paragraphe 304 (3);
15. prescrire des dispositions et prescrire et régir la manière de consigner les divulgations pour l'application du paragraphe 306 (3);
16. prescrire des exceptions et des exigences supplémentaires pour l'application du paragraphe 308 (2);
17. prescrire des exigences pour l'application du paragraphe 308 (3) et de l'alinéa 309 (1) b);
18. prescrire des circonstances pour l'application du paragraphe 314 (10) et régir les droits qui peuvent être exigés en de telles circonstances;
19. permettre que les avis, déclarations ou autres choses qui, en application de la présente partie, doivent être remis par écrit soient plutôt remis sur support électronique ou sous une autre forme, sous réserve des conditions ou restrictions que précisent les règlements pris en vertu du présent article;
20. exiger que les fournisseurs de services fournissent des renseignements au commissaire et préciser le type de renseignements devant être fournis de même que le moment où ils doivent l'être et la manière dont ils doivent l'être.

Règlements : Partie XI (Dispositions diverses)

349 Pour l'application de la partie XI, le lieutenant-gouverneur en conseil peut, par règlement :

1. prescrire le nombre de membres de la Commission et le nombre de membres qui constitue le quorum;
2. prescrire les pouvoirs, les fonctions et les règles supplémentaires de la Commission;
3. traiter des vérifications de dossiers de police pour l'application de l'article 334, notamment :
 - i. exiger que différentes catégories de personnes fournissent différents types de vérifications de dossiers de police ou différents types de renseignements dans le cadre d'une vérification,
 - ii. prescrire la marche à suivre lorsqu'une vérification de dossier de police est exigée,
 - iii. prescrire d'autres personnes pour l'application de la disposition 3 de l'article 334,
 - iv. exiger l'obtention de vérifications de dossiers de police auprès d'autorités législatives hors de l'Ontario dans des circonstances déterminées;
4. traiter des vérifications de dossiers de police pour l'application de l'article 335, notamment :
 - i. prescrire les autres entités auprès desquelles une société peut demander des vérifications de dossiers de police ou d'autres renseignements,
 - ii. prescrire les autres renseignements qui peuvent être demandés,
 - iii. prescrire les circonstances dans lesquelles une demande peut être faite de même que les fins pour lesquelles elle peut être faite,
 - iv. prescrire la marche à suivre lorsqu'une vérification de dossier de police ou d'autres renseignements sont demandés.

PARTIE XIII ABROGATION, ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ

Abrogation

350 La *Loi sur les services à l'enfance et à la famille* est abrogée.

Entrée en vigueur

351 La loi figurant à la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Titre abrégé

352 Le titre abrégé de la loi figurant à la présente annexe est *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

ANNEXE 2
MODIFICATIONS DE LA LOI SUR LES SERVICES À L'ENFANCE ET À LA FAMILLE

1 Les alinéas 15 (3) a) et b) de la *Loi sur les services à l'enfance et à la famille* sont abrogés et remplacés par ce qui suit :

- a) enquêter sur les allégations ou les preuves selon lesquelles des enfants peuvent avoir besoin de protection;
- b) protéger les enfants en cas de besoin;

2 (1) Le paragraphe 27 (1) de la Loi est abrogé et remplacé par ce qui suit :

Consentement à un service

Consentement : personne de 16 ans ou plus

(1) Sous réserve de l'alinéa (2) b) et du paragraphe (3), le fournisseur de services peut fournir un service à une personne de 16 ans ou plus uniquement avec le consentement de cette personne, sauf si le tribunal ordonne, en vertu de la présente loi, que le service soit fourni à cette personne.

(2) Les paragraphes 27 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Consentement : enfant de moins de 16 ans ou confié à une société

(2) Sauf disposition contraire de la présente loi, le fournisseur de services ne peut fournir un service en établissement à un enfant :

- a) qu'avec le consentement d'un parent de l'enfant, si l'enfant a moins de 16 ans;
- b) qu'avec le consentement de la société, si l'enfant est confié à la garde légitime d'une société.

Exception — Part IV

(3) Les paragraphes (1) et (2) ne s'appliquent pas si le service est fourni à un adolescent sous le régime de la partie IV (Justice pour les adolescents).

(3) Le paragraphe 27 (4) de la Loi est modifié par adjonction de l'alinéa suivant :

- c) que conformément au paragraphe 37.1 (5) (avis de résiliation), si le placement est effectué en vertu d'une entente conclue en vertu du paragraphe 37.1 (1) (ententes avec des jeunes de 16 et 17 ans).

3 Le paragraphe 29 (2) de la Loi est abrogé et remplacé par ce qui suit :

Âge de l'enfant

(2) Aucune entente relative à des soins temporaires ne doit être conclue à l'égard d'un enfant de 12 ans ou plus, à moins qu'il ne soit partie à l'entente.

4 (1) La définition de «enfant» au paragraphe 37 (1) de la Loi est abrogée.

(2) Le paragraphe 37 (2) de la Loi est modifié par adjonction de l'alinéa suivant :

- m) l'enfant de 16 ou 17 ans dans les circonstances ou situations prescrites.

5 La Loi est modifiée par adjonction de l'article suivant :

Ententes avec des jeunes de 16 et 17 ans

37.1 (1) La société et l'enfant de 16 ou 17 ans peuvent conclure une entente écrite relativement à la prestation de services et de soutiens à l'enfant si les conditions suivantes sont réunies :

- a) la société exerce sa compétence dans le territoire où l'enfant réside;
- b) la société a établi que l'enfant a ou peut avoir besoin de protection;
- c) la société est convaincue qu'aucun autre plan d'action moins perturbateur, comme la prestation de soins à l'enfant dans son propre foyer ou auprès d'un membre de sa parenté, d'un voisin ou d'un autre membre de sa communauté ou de sa famille élargie, ne peut convenablement protéger l'enfant;
- d) l'enfant veut conclure l'entente.

Idem

(2) Si l'entente relative à des soins temporaires à l'égard de l'enfant est résiliée ou expire ou est sur le point d'expirer de la façon décrite à l'article 33 et qu'elle n'est pas prorogée, la société peut conclure une entente écrite en vertu du paragraphe (1), et ce avant la résiliation ou l'expiration de l'entente.

Durée de l'entente

(3) L'entente peut être conclue pour une période maximale de 12 mois. Elle peut toutefois être renouvelée si sa durée totale, avec les prorogations, ne dépasse pas 24 mois.

Rapports antérieurs ou actuels avec une société

(4) Un enfant peut conclure une entente en vertu du présent article indépendamment de ses rapports antérieurs ou actuels avec une société et de la période pendant laquelle il a été confié aux soins d'une société conformément soit à une entente conclue en vertu de l'article 29, soit à une ordonnance rendue en vertu de l'alinéa 51 (2) d), de la disposition 2 ou 3 du paragraphe 57 (1) ou du paragraphe 65.2 (1).

Avis de résiliation de l'entente

(5) Une partie à une entente conclue en vertu du présent article peut la résilier à tout moment en donnant aux autres parties un avis écrit de son intention.

Expiration de l'entente : 18 ans

(6) Aucune entente conclue en vertu du présent article ne demeure en vigueur après le 18^e anniversaire de naissance de la personne qui en fait l'objet.

Instances et ordonnances en cours

(7) Malgré le paragraphe (4), aucune entente ne peut entrer en vigueur en vertu du présent article tant qu'une entente relative à des soins temporaires conclue en vertu de l'article 29 ou qu'une ordonnance en matière de soins ou de surveillance d'un enfant visée à la présente partie n'est pas révoquée.

Représentation par l'avocat des enfants

(8) L'avocat des enfants peut représenter l'enfant qui conclut une entente en vertu du présent article s'il est d'avis que cela est approprié.

6 (1) La version anglaise du paragraphe 40 (2) de la Loi est modifiée par adjonction de l'alinéa suivant :

(0.a) the child is less than 16 years old;

(2) La version française du paragraphe 40 (2) de la Loi est abrogée et remplacée par ce qui suit :

Mandat d'amener un enfant

(2) Un juge de paix peut décerner un mandat autorisant un préposé à la protection de l'enfance à amener un enfant dans un lieu sûr s'il est convaincu, à la suite d'une dénonciation faite sous serment par un préposé à la protection de l'enfance, qu'il existe des motifs raisonnables et probables de croire ce qui suit :

0.a) l'enfant a moins de 16 ans;

a) l'enfant a besoin de protection;

b) un autre plan d'action moins restrictif n'est pas disponible ou ne protégera pas suffisamment l'enfant.

(3) La version anglaise du paragraphe 40 (7) de la Loi est modifiée par suppression de «and» à la fin de l'alinéa a) et par adjonction de l'alinéa suivant :

(a.1) the child is less than 16 years old; and

(4) La version française du paragraphe 40 (7) de la Loi est abrogée et remplacée par ce qui suit :

Appréhension de l'enfant sans mandat

(7) Le préposé à la protection de l'enfance peut, sans mandat, conduire un enfant dans un lieu sûr si, en se fondant sur des motifs raisonnables et probables, il croit ce qui suit :

a) l'enfant a besoin de protection;

a.1) l'enfant a moins de 16 ans;

b) la santé ou la sécurité de l'enfant risqueraient vraisemblablement d'être compromises pendant le laps de temps nécessaire à l'obtention d'une audience en vertu du paragraphe 47 (1) ou d'un mandat en vertu du paragraphe (2).

7 La Loi est modifiée par adjonction de l'article suivant :

Exception : enfant de 16 ou 17 ans amené dans un lieu sûr ou appréhendé avec consentement

40.1 (1) Un préposé à la protection de l'enfance peut amener dans un lieu sûr, avec son consentement, un enfant de 16 ou 17 ans qui fait l'objet d'une ordonnance de surveillance provisoire ou définitive.

Ordonnance de surveillance provisoire ou définitive

(2) La définition qui suit s'applique au présent article.

«ordonnance de surveillance provisoire ou définitive» Ordonnance rendue en vertu de l'alinéa 51 (2) b) ou c), de la disposition 1 ou 4 du paragraphe 57 (1), du paragraphe 64 (8) ou 65.1 (10) ou de l'alinéa 65.2 (1) a).

8 Le paragraphe 46 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

d) une entente doit être conclue en vertu de l'article 37.1 (ententes avec des jeunes de 16 et 17 ans).

9 La Loi est modifiée par adjonction de l'article suivant :

Restriction relative au délai dans un lieu sûr : enfant de 16 ou 17 ans

46.1 Aussitôt que la chose peut se faire et, en tout état de cause, dans les cinq jours suivant le jour où l'enfant de 16 ou 17 ans est amené, avec son consentement, dans un lieu sûr en vertu de l'article 40.1 :

- a) un tribunal doit être saisi de l'affaire afin que soit tenue l'audience prévue au paragraphe 47 (1);
- b) l'enfant doit être rendu à la personne à qui l'ordonnance rendue en vertu de la présente partie reconnaît le droit d'avoir la garde de l'enfant.

10 Le paragraphe 47 (3) de la Loi est abrogé.

11 L'article 57 de la Loi est modifié par adjonction du paragraphe suivant :

Aucune ordonnance si l'enfant n'est pas soumis à l'autorité parentale

(10) Si le tribunal conclut que l'enfant qui n'était pas soumis à l'autorité parentale immédiatement avant l'intervention prévue sous le régime de la présente partie du fait qu'il s'y était soustrait ou qui se soustrait à l'autorité parentale après une telle intervention a besoin de protection, mais qu'il n'est pas convaincu qu'une ordonnance du tribunal soit nécessaire pour protéger l'enfant à l'avenir, il ne rend aucune ordonnance à l'égard de l'enfant.

12 L'article 71.1 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(1.1) Une société peut assumer les soins et l'entretien d'une personne conformément aux règlements si :

- a) d'une part, la personne a conclu une entente avec la société en vertu de l'article 37.1 (ententes avec des jeunes de 16 et 17 ans);
- b) d'autre part, l'entente a expiré au 18^e anniversaire de naissance de la personne.

13 L'article 72 de la Loi est modifié par adjonction du paragraphe suivant :

Enfant plus âgé non visé par l'obligation de faire rapport

(3.1) Les paragraphes (1) et (2) ne s'appliquent pas à l'égard d'un enfant de 16 ou 17 ans. Une personne peut toutefois faire un rapport en application du paragraphe (1) ou (2) à l'égard d'un enfant de 16 ou 17 ans s'il existe l'une des circonstances ou situations visées aux dispositions 1 à 11 du paragraphe (1) ou une circonstance ou situation prescrite.

14 (1) Le paragraphe 216 (1) de la Loi est modifié par adjonction des alinéas suivants :

- a.2) prescrire les circonstances et situations supplémentaires dans lesquelles un enfant de moins de 18 ans a besoin de protection pour l'application de l'alinéa 37 (2) m);
- i) régir les questions transitoires pouvant découler des modifications apportées à la présente loi par l'annexe 2 de la *Loi de 2017 sur le soutien à l'enfance, à la jeunesse et à la famille*.

(2) L'article 216 de la Loi est modifié par adjonction du paragraphe suivant :

Incompatibilité

(1.1) Le règlement pris en vertu de l'alinéa (1) i) l'emporte sur toute disposition incompatible de la présente loi ou des règlements.

(3) Le paragraphe 216 (2) de la Loi est modifié par adjonction des alinéas suivants :

- 0.a) prescrire les fonctions et obligations des sociétés ainsi que les droits et responsabilités des enfants à l'égard des ententes conclues en vertu de l'article 37.1 (ententes avec des jeunes de 16 et 17 ans), notamment les services et soutiens qui peuvent être fournis dans le cadre de ces ententes, prescrire les circonstances supplémentaires pour la conclusion de ces ententes et les dispositions qui doivent y figurer, et régir la modification et la résiliation de ces ententes;
- c) prescrire des circonstances et des situations pour l'application du paragraphe 72 (3.1).

15 La Loi est modifiée par adjonction de l'article suivant :

Règlements : définition de mots ou d'expressions dans la présente loi

223.0.1 Le lieutenant-gouverneur en conseil peut, par règlement, définir des mots ou des expressions employés mais non déjà définis dans la présente loi. Il peut aussi définir davantage des mots ou des expressions employés et déjà définis dans la présente loi.

Entrée en vigueur

16 La présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

ANNEXE 3

MODIFICATIONS DE LA LOI DE 2017 SUR LES SERVICES À L'ENFANCE, À LA JEUNESSE ET À LA FAMILLE

1 La disposition 7 du paragraphe 46 (5) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* est modifiée par remplacement de «la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif*».

2 (1) Le paragraphe 47 (3) de la Loi est modifié par remplacement de «du paragraphe 113 (2) de la *Loi sur les personnes morales*» par «du paragraphe 110 (2) de la *Loi de 2010 sur les organisations sans but lucratif*».

(2) Le paragraphe 47 (4) de la Loi est abrogé et remplacé par ce qui suit :

Approbation par le ministre des statuts de fusion

(4) Les sociétés ne doivent pas déposer des statuts de fusion en application de l'article 112 de la *Loi de 2010 sur les organisations sans but lucratif* sans avoir reçu l'approbation préalable du ministre.

3 (1) La disposition 2 du paragraphe 48 (11) de la Loi est modifiée par remplacement de «la *Loi sur les personnes morales*, des lettres patentes, des lettres patentes supplémentaires ou des règlements administratifs» par «la *Loi de 2010 sur les organisations sans but lucratif*, des statuts ou des règlements administratifs» à la fin de la disposition.

(2) Le paragraphe 48 (14) de la Loi est abrogé et remplacé par ce qui suit :

Approbation par le ministre des statuts de fusion

(14) La société ne doit pas déposer des statuts de fusion en application de l'article 112 de la *Loi de 2010 sur les organisations sans but lucratif* sans avoir reçu l'approbation préalable du ministre.

4 L'article 50 de la Loi est abrogé et remplacé par ce qui suit :

Incompatibilité avec les statuts ou les règlements administratifs de la société

50 Les articles 44 à 49 l'emportent sur les dispositions incompatibles des statuts ou des règlements administratifs d'une société.

5 Le paragraphe 87 (2) de la Loi est abrogé et remplacé par ce qui suit :

Champ d'application

(2) Le présent article s'applique aux audiences tenues sous le régime de la présente partie.

6 Le paragraphe 127 (2) de la Loi est abrogé et remplacé par ce qui suit :

Définition

(2) La définition qui suit s'applique au présent article et à l'article 129.

«subir des mauvais traitements» En ce qui concerne un enfant, avoir besoin de protection au sens de l'alinéa 74 (2) a), c), e), f), g) ou j).

7 Les articles 133 et 134 de la Loi sont abrogés.

8 (1) Les alinéas 142 (1) c) et d) de la Loi sont abrogés.

(2) Le paragraphe 142 (3) de la Loi est modifié par suppression de «ou 134 (11)».

9 Le paragraphe 206 (1) de la Loi est abrogé et remplacé par ce qui suit :

Changement de nom

(1) Sous réserve du paragraphe (1.1), si le tribunal rend une ordonnance en vertu de l'article 199, il peut, à la demande du ou des requérants, prendre l'une ou l'autre des mesures suivantes :

- a) changer le nom de famille de l'adopté et lui donner celui que l'adopté aurait pu avoir s'il avait été l'enfant du ou des requérants à sa naissance en Ontario au moment où l'ordonnance a été rendue;
- b) changer le prénom de l'adopté;
- c) changer le nom de famille de l'adopté comme le prévoit l'alinéa a) et changer son prénom;
- d) changer le nom unique de l'adopté et lui donner celui qui est établi conformément à sa culture traditionnelle ou à celle du ou des requérants si le registraire général de l'état civil au sens de la *Loi sur les statistiques de l'état civil* approuve le nom unique;
- e) changer le nom unique de l'adopté et lui donner un nom composé d'au moins un prénom et un nom de famille comme le prévoit l'alinéa a);

- f) changer le prénom et le nom de famille de l'adopté et lui donner un nom unique établi conformément à sa culture traditionnelle ou à celle du ou des requérants si le registraire général de l'état civil au sens de la *Loi sur les statistiques de l'état civil* approuve le nom unique.

Idem

(1.1) Le tribunal ne doit pas faire le changement visé au paragraphe (1), sauf si, à la fois :

- a) il est dans l'intérêt véritable de l'enfant de le faire, si l'adopté est un enfant;
- b) l'adopté consent au changement, s'il a 12 ans ou plus.

10 L'alinéa a) de la définition de «agence sans but lucratif» au paragraphe 229 (7) de la Loi est modifié par remplacement de «la partie III de la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif* ou une loi que cette loi remplace».

11 L'article 282 de la Loi est modifié par suppression de «et 134 (11)».

12 Le paragraphe 285 (5) de la Loi est abrogé et remplacé par ce qui suit :

Exceptions : autres questions

(5) Les articles 286 à 332 ne s'appliquent pas :

- a) aux dossiers auxquels s'applique le paragraphe 130 (6) ou (8);
- b) aux rapports visés par une ordonnance rendue en vertu du paragraphe 163 (6).

13 Le paragraphe 341 (5) de la Loi est modifié par remplacement de «la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif*».

14 Les dispositions 16, 17 et 18 du paragraphe 343 (1) de la Loi sont abrogées.

Entrée en vigueur

15 (1) Sous réserve du paragraphe (2), la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) Les articles 1 à 4, 10 et 13 entrent en vigueur le premier jour où l'article 350 de l'annexe 1 de la *Loi de 2017 sur le soutien à l'enfance, à la jeunesse et à la famille* et le paragraphe 4 (1) de la *Loi de 2010 sur les organisations sans but lucratif* sont tous deux en vigueur.

ANNEXE 4 MODIFICATIONS D'AUTRES LOIS

Loi sur l'évaluation foncière

1 La disposition 13 du paragraphe 3 (1) de la *Loi sur l'évaluation foncière* est modifiée par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*».

Loi de 2010 sur la responsabilisation du secteur parapublic

2 L'alinéa d) de la définition de «organisme désigné du secteur parapublic» au paragraphe 1 (1) de la *Loi de 2010 sur la responsabilisation du secteur parapublic* est abrogé et remplacé par ce qui suit :

- d) les agences désignées comme sociétés d'aide à l'enfance en application du paragraphe 34 (1) de la partie III de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

Loi de 2014 sur la garde d'enfants et la petite enfance

3 (1) Le paragraphe 18 (4) de la *Loi de 2014 sur la garde d'enfants et la petite enfance* est abrogé et remplacé par ce qui suit :

Obligation de déclaration prévue par la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*

(4) Le présent article n'a aucune incidence sur l'obligation de déclarer ses soupçons prévue à l'article 125 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

(2) Le paragraphe 23 (10) de la *Loi* est abrogé et remplacé par ce qui suit :

Application de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*

(10) Les articles 266 et 267 de la partie IX de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* s'appliquent, avec les adaptations nécessaires, aux instances introduites devant le Tribunal, aux pouvoirs de celui-ci et aux appels de ses ordonnances.

Loi portant réforme du droit de l'enfance

4 (1) L'alinéa 4 (2) b) de la *Loi portant réforme du droit de l'enfance* est modifié par remplacement de «l'article 158 ou 159 de la *Loi sur les services à l'enfance et à la famille*» par «l'article 217 ou 218 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*».

(2) L'alinéa 21 (2) b) de la *Loi* est abrogé et remplacé par ce qui suit :

- b) des renseignements sur la participation actuelle ou antérieure de la personne dans des instances en droit de la famille, y compris les instances visées à la partie V de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* (Protection de l'enfance), ou dans des instances criminelles;

(3) Le paragraphe 21.2 (1) de la *Loi* est abrogé et remplacé par ce qui suit :

Recherche dans les dossiers de la société d'aide à l'enfance : personne qui n'est pas un parent

Définition

(1) La définition qui suit s'applique au présent article.

«société» Agence désignée comme société d'aide à l'enfance en vertu de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

(4) Le paragraphe 21.2 (9) de la *Loi* est abrogé et remplacé par ce qui suit :

Interprétation

(9) Aucune mesure prise conformément au présent article ne constitue la publication de renseignements ni le fait de les rendre publics pour l'application du paragraphe 87 (8) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* ou d'une ordonnance visée à l'alinéa 70 (1) b) de la présente loi.

(5) Le paragraphe 21.3 (6) de la *Loi* est abrogé et remplacé par ce qui suit :

Interprétation

(6) Aucune mesure prise conformément au présent article ne constitue la publication de renseignements ni le fait de les rendre publics pour l'application du paragraphe 87 (8) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* ou d'une ordonnance visée à l'alinéa 70 (1) b) de la présente loi.

(6) Le paragraphe 26 (1.1) de la *Loi* est abrogé et remplacé par ce qui suit :

Exception

(1.1) Le paragraphe (1) ne s'applique pas à une requête présentée en vertu de la présente partie qui porte sur le droit de visite ou la garde d'un enfant si ce dernier fait l'objet d'une demande, d'une requête ou d'une ordonnance prévue par la partie V de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*, sauf si la requête présentée en vertu de la présente partie porte sur l'une ou l'autre des ordonnances suivantes :

- a) une ordonnance rendue à l'égard de cet enfant en vertu du paragraphe 102 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;
- b) une ordonnance visée au paragraphe 102 (3) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* qui a été rendue en même temps qu'une ordonnance visée au paragraphe 102 (1) de cette loi;
- c) une ordonnance de visite rendue à l'égard de cet enfant en vertu de l'article 104 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* en même temps qu'une ordonnance visée au paragraphe 102 (1) de cette loi.

(7) Les paragraphes 28 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Exception

(2) Si une requête est présentée en vertu de l'article 21 à l'égard d'un enfant qui fait l'objet d'une ordonnance rendue aux termes de l'article 102 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*, le tribunal traite la requête comme s'il s'agissait d'une requête en modification d'une ordonnance rendue aux termes du présent article.

Idem

(3) S'il a été rendu une ordonnance accordant le droit de visiter un enfant aux termes de la partie V de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* en même temps qu'une ordonnance de garde de l'enfant a été rendue aux termes de l'article 102 de cette loi, le tribunal traite la requête présentée en vertu de l'article 21 de la présente loi relative au droit de visiter l'enfant comme s'il s'agissait d'une requête en modification d'une ordonnance rendue aux termes du présent article.

Loi Christopher de 2000 sur le registre des délinquants sexuels

5 La définition de «lieu de garde» au paragraphe 4.1 (5) de la Loi Christopher de 2000 sur le registre des délinquants sexuels est abrogée et remplacée par ce qui suit :

«lieu de garde» Lieu de garde en milieu ouvert ou lieu de garde en milieu fermé au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («youth custody facility»)

Loi de 2006 sur la cité de Toronto

6 (1) L'alinéa a) de la définition de «conseil local (définition restreinte)» au paragraphe 8 (6) de la Loi de 2006 sur la cité de Toronto est abrogé et remplacé par ce qui suit :

- a) une société au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

(2) L'alinéa 145 (3) a) de la Loi est abrogé et remplacé par ce qui suit :

- a) une société au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

(3) L'alinéa a) de la définition de «conseil local (définition restreinte)» à l'article 156 de la Loi est abrogé et remplacé par ce qui suit :

- a) une société au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

Loi sur l'indemnisation des victimes d'actes criminels

7 La définition de «enfant» à l'article 1 de la Loi sur l'indemnisation des victimes d'actes criminels est modifiée par remplacement de «des articles 158 et 159 de la Loi sur les services à l'enfance et à la famille» par «des articles 217 et 218 de la Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille».

Loi sur les coroners

8 (1) L'alinéa 10 (2) b) de la Loi sur les coroners est abrogé et remplacé par ce qui suit :

- b) un foyer pour enfants au sens de la partie IX (Permis d'établissement) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* ou des locaux qui avaient été agréés en vertu du paragraphe 9 (1) de la partie I (Services adaptables) de la *Loi sur les services à l'enfance et à la famille*, dans sa version antérieure à son abrogation;

(2) Le paragraphe 10 (4.8) de la Loi est abrogé et remplacé par ce qui suit :

Décès pendant la contention dans un programme de traitement en milieu fermé

(4.8) Si une personne décède pendant qu'elle est maîtrisée et pendant qu'elle est placée ou admise dans un programme de traitement en milieu fermé au sens de la partie VII de la Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille,

la personne responsable du programme donne immédiatement avis du décès à un coroner, lequel tient une enquête sur la cause du décès.

(3) L'article 22.1 de la Loi est abrogé et remplacé par ce qui suit :

Enquête obligatoire

22.1 Lorsqu'il apprend qu'un enfant est décédé dans les circonstances visées aux alinéas 128 a), b) et c) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*, un coroner tient une enquête en application de la présente loi sur le décès de l'enfant.

Loi sur l'imposition des sociétés

9 L'alinéa i) de la définition de «membre de sa famille» au paragraphe 1 (2) de la *Loi sur l'imposition des sociétés* est modifié par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*».

Loi sur les tribunaux judiciaires

10 (1) La disposition 1 de l'annexe de l'article 21.8 de la *Loi sur les tribunaux judiciaires* est modifiée par remplacement de «*Loi sur les services à l'enfance et à la famille*, parties III, VI et VII» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*, parties V, VII et VIII».

(2) Le paragraphe 21.12 (1) de la Loi est abrogé et remplacé par ce qui suit :

Exécution des ordonnances

(1) Un juge qui préside la Cour de la famille est réputé un juge de la Cour de justice de l'Ontario pour les besoins des poursuites intentées en vertu de la partie V (Protection de l'enfance) et de la partie VIII (Adoption et délivrance de permis relatifs à l'adoption) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*, de la *Loi portant réforme du droit de l'enfance*, de la *Loi sur le droit de la famille* et de la *Loi de 1996 sur les obligations familiales et l'exécution des arriérés d'aliments*.

(3) Le paragraphe 38 (2) de la Loi est modifié par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*».

Loi de 1993 sur la négociation collective des employés de la Couronne

11 L'alinéa a) de la définition de «établissement» au paragraphe 7 (5) de la *Loi de 1993 sur la négociation collective des employés de la Couronne* est abrogé et remplacé par ce qui suit :

- a) des locaux où le ministre fournit des services conformément à la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

Loi de 2007 sur les éducatrices et les éducateurs de la petite enfance

12 Le paragraphe 32.1 (1) de *Loi de 2007 sur les éducatrices et les éducateurs de la petite enfance* est abrogé et remplacé par ce qui suit :

Plainte : rapport sur un enfant ayant besoin de protection

(1) Le présent article s'applique à l'égard d'une plainte si le registrateur a des motifs raisonnables de croire que le plaignant ou toute autre personne devait vraisemblablement faire un rapport en application de l'article 125 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* relativement à la conduite ou aux actes du membre qui font l'objet de la plainte.

Loi sur l'éducation

13 (1) L'alinéa 45 (1) b) de la *Loi sur l'éducation* est abrogé et remplacé par ce qui suit :

- b) il met la personne en pension dans une résidence qui n'est pas un foyer pour enfants au sens de la partie IX (Permis d'établissement) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*,

(2) L'article 47 de la Loi est abrogé et remplacé par ce qui suit :

Enfant confié aux soins ou à la surveillance d'une société

École élémentaire

47 (1) L'enfant qui est confié aux soins ou à la surveillance d'une société d'aide à l'enfance, qui bénéficie de services de protection de l'enfance fournis par une telle société ou qui réside dans un foyer pour enfants ou dans une famille d'accueil au sens de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* et qui satisfait par ailleurs aux conditions requises pour être admis à l'école élémentaire est admis gratuitement à une école élémentaire qui relève du conseil de la circonscription scolaire ou de la zone d'écoles séparées, selon le cas, dans laquelle il réside.

École secondaire

(2) L'enfant qui est confié aux soins ou à la surveillance d'une société d'aide à l'enfance, qui bénéficie de services de protection de l'enfance fournis par une telle société ou qui réside dans un foyer pour enfants ou dans une famille d'accueil au sens de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* et qui satisfait par ailleurs aux conditions requises pour être admis à l'école secondaire est admis gratuitement à une école secondaire qui relève du conseil du district d'écoles secondaires ou de la zone d'écoles séparées, selon le cas, dans laquelle il réside.

Loi sur l'accès à l'information et la protection de la vie privée

14 (1) Les dispositions 2, 3 et 4 du paragraphe 65 (8) de la *Loi sur l'accès à l'information et la protection de la vie privée* sont abrogées et remplacées par ce qui suit :

- 2. Les veto sur la divulgation enregistrés en application de l'article 48.5 de la *Loi sur les statistiques de l'état civil*.
- 3. Les renseignements et les documents compris dans les dossiers qui sont descellés en vertu de l'article 48.6 de cette loi.

(2) La disposition 2 du paragraphe 67 (2) de la *Loi* est abrogée et remplacée par ce qui suit :

- 2. Les paragraphes 87 (8), (9) et (10), 98 (9) et (10), 130 (6), 133 (6), 134 (11) et 163 (6), et l'article 227 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

(3) La disposition 2 du paragraphe 67 (2) de la *Loi* est abrogée et remplacée par ce qui suit :

- 2. Les paragraphes 87 (8), (9) et (10), 98 (9) et (10), 130 (6) et 163 (6), et l'article 227 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

(4) Les dispositions 4, 7 et 7.0.1 du paragraphe 67 (2) de la *Loi* sont abrogées et remplacées par ce qui suit :

- 4. L'article 12 de la *Loi sur les contrats à terme sur marchandises*.
- 7. Le paragraphe 119 (1) de la *Loi de 1995 sur les relations de travail*.
- 7.0.1 Les articles 89 et 90 et le paragraphe 92 (6) de la *Loi de 1998 sur les services d'aide juridique*.

Loi sur les services en français

15 L'alinéa e) de la définition de «organisme gouvernemental» à l'article 1 de la *Loi sur les services en français* est abrogé et remplacé par ce qui suit :

- e) un fournisseur de services au sens de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* ou un conseil d'administration au sens de la *Loi sur les conseils d'administration de district des services sociaux* qui sont désignés par les règlements en tant qu'organismes offrant des services publics.

Loi de 1996 sur le consentement aux soins de santé

16 (1) Le paragraphe 76 (2) de la *Loi de 1996 sur le consentement aux soins de santé* est modifié par remplacement de «des paragraphes 183 (2) à (6) de la *Loi sur les services à l'enfance et à la famille* (non-divulgence d'un dossier relatif à un trouble mental)» par «des paragraphes 294 (2) à (6) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* (non-divulgence d'un dossier relatif à un trouble mental)» à la fin du paragraphe.

(2) Le paragraphe 81 (3) de la *Loi* est modifié par remplacement de «de l'article 124 de la *Loi sur les services à l'enfance et à la famille*» par «de l'article 171 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*».

Loi sur la protection et la promotion de la santé

17 (1) Les alinéas b) et c) de la définition de «établissement» au paragraphe 21 (1) de la *Loi sur la protection et la promotion de la santé* sont abrogés et remplacés par ce qui suit :

- b) local qui avait été agréé en vertu du paragraphe 9 (1) de la partie I (Services adaptables) de la *Loi sur les services à l'enfance et à la famille*, dans sa version antérieure à son abrogation;
- c) «foyer pour enfants» au sens de la partie IX (Permis d'établissement) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

(2) L'alinéa 39 (2) e) de la *Loi* est abrogé et remplacé par ce qui suit :

- e) pour empêcher la déclaration de renseignements aux termes de l'article 125 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* à l'égard d'un enfant qui a ou peut avoir besoin de protection.

Loi de 1998 sur l'adoption internationale

18 (1) Le paragraphe 1 (1) de la *Loi de 1998 sur l'adoption internationale* est modifié par adjonction de la définition suivante :

«prescrit» Prescrit par les règlements. («prescribed»)

(2) L'article 5 de la Loi est modifié par adjonction du paragraphe suivant :**Vérification de dossier de police**

(3.1) La personne qui fait l'objet de l'étude du milieu familial et les autres personnes prescrites doivent fournir une vérification de dossier de police les concernant à la personne prescrite ou à l'organisme prescrit conformément aux règlements.

(3) L'article 8.1 de la Loi est abrogé et remplacé par ce qui suit :**Conditions du permis**

8.1 (1) Lorsqu'il délivre ou renouvelle un permis, ou à tout autre moment, le directeur peut assortir le permis des conditions qu'il juge appropriées.

Modification des conditions

(2) Le directeur peut, à tout moment, modifier les conditions du permis.

Avis

(3) S'il assortit le permis de conditions ou qu'il modifie des conditions, le directeur en avise le titulaire de permis par écrit.

Contenu de l'avis

(4) L'avis énonce les motifs de l'imposition de conditions ou de la modification de conditions et indique que le titulaire de permis a droit à une audience devant le Tribunal s'il en demande une conformément à l'article 12.

Prise d'effet des conditions sur avis

(5) L'imposition ou la modification de conditions prend effet dès que le titulaire de permis reçoit l'avis. Une demande d'audience devant le Tribunal n'a pas pour effet de surseoir à l'imposition ou à la modification des conditions.

Titulaire du permis : obligation de conformité aux conditions

(6) Le titulaire de permis doit se conformer aux conditions dont est assorti le permis.

(4) L'article 9 de la Loi est modifié par insertion de «proposer de» avant «refuser» dans le passage qui précède l'alinéa a).

(5) L'article 9 de la Loi est modifié par adjonction de l'alinéa suivant :

c) il existe un motif prescrit comme motif justifiant le refus de délivrer un permis.

(6) L'article 10 de la Loi est modifié par remplacement de «peut révoquer un permis ou refuser de le renouveler» par «peut proposer de révoquer un permis ou de refuser de le renouveler» dans le passage qui précède l'alinéa a).

(7) L'article 10 de la Loi est modifié par adjonction de l'alinéa suivant :

e) il existe un motif prescrit comme motif justifiant la révocation du permis ou le refus de le renouveler.

(8) L'alinéa 13 (3) b) de la Loi est abrogé et remplacé par ce qui suit :

b) soit jusqu'au moment où expire le délai prévu pour demander une audience, si le titulaire du permis reçoit signification d'un avis de l'intention du directeur de révoquer le permis ou de refuser de le renouveler, ou, si une audience est demandée, jusqu'au jour où le Tribunal rend sa décision.

(9) Le paragraphe 14 (1) de la Loi est abrogé et remplacé par ce qui suit :**Suspension du permis**

(1) Le directeur peut, en faisant signifier un avis au titulaire d'un permis, suspendre le permis s'il est d'avis que la manière dont les adoptions internationales sont facilitées constitue un danger immédiat pour la santé, la sécurité ou le bien-être des enfants.

(10) Le paragraphe 14 (3) de la Loi est abrogé et remplacé par ce qui suit :**Entrée en vigueur de la suspension**

(3) La suspension entre en vigueur le jour où le titulaire du permis reçoit l'avis. La demande d'audience devant le Tribunal n'a pas pour effet de surseoir à l'exécution de la suspension.

(11) L'article 17 de la Loi est abrogé et remplacé par ce qui suit :**Inspections par le directeur**

17 (1) Afin de s'assurer de la conformité à la présente loi et aux règlements, le directeur ou la personne munie d'une autorisation écrite du directeur peut, sans mandat ni préavis, pénétrer à toute heure raisonnable dans les locaux d'un titulaire de permis pour y effectuer une inspection.

Restriction : logement

(2) Le pouvoir de pénétrer dans un local visé au paragraphe (1) et de l'inspecter ne doit pas être exercé dans une pièce ou un endroit qui sert effectivement de logement, sauf si l'occupant y consent.

Pièces d'identité

(3) Le directeur ou la personne munie d'une autorisation écrite du directeur qui effectue une inspection présente, sur demande, les pièces d'identité suffisantes.

Application des dispositions de la Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille

(4) Les dispositions suivantes de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* s'appliquent, avec les adaptations nécessaires, à l'égard d'une inspection effectuée en vertu du présent article :

1. L'article 276 (pouvoirs de l'inspecteur).
2. L'article 279 (admissibilité de certains documents).
3. L'article 60 (inspection avec mandat).
4. Les paragraphes 67 (3) à (6) (infractions).

(12) L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

Remise du permis et des dossiers

18 En cas de révocation ou de refus de renouvellement de son permis, ou s'il cesse de faciliter des adoptions internationales, le titulaire de permis :

- a) remet promptement son permis au directeur ou au ministre;
- b) remet à une personne ou entité prescrite, dans le délai prescrit, tous les dossiers qui se trouvent en sa possession ou sous son contrôle et qui se rapportent aux enfants à qui des services étaient fournis.

(13) Le paragraphe 20 (1) de la Loi est modifié par remplacement de «2 000 \$» par «5 000 \$».

(14) Le paragraphe 20 (2) de la Loi est modifié par remplacement de «1 000 \$» par «5 000 \$».

(15) Les paragraphes 20 (3) et (4) de la Loi sont modifiés par remplacement de «2 000 \$» par «5 000 \$» partout où figure cette somme.

(16) L'article 22 de la Loi est abrogé et remplacé par ce qui suit :

Article 227 de la Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille

22 Les directeurs et les titulaires de permis visés par la présente loi sont réputés être des titulaires de permis pour l'application de l'article 227 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* (caractère confidentiel des renseignements sur les adoptions).

(17) L'article 24 de la Loi est modifié par adjonction des alinéas suivants :

- e.1) traiter des vérifications de dossiers de police pour l'application de la présente loi, notamment :
 - (i) définir l'expression «vérification de dossier de police»,
 - (ii) exiger que différentes catégories de personnes fournissent différents types de vérifications de dossiers de police ou différents types de renseignements dans le cadre d'une vérification,
 - (iii) prescrire la marche à suivre lorsqu'une vérification de dossier de police est exigée,
 - (iv) pour l'application du paragraphe 5 (3.1), prescrire les autres personnes qui peuvent être tenues de fournir une vérification de dossier de police ainsi que les personnes et organismes à qui les vérifications doivent être fournies,
 - (v) exiger l'obtention de vérifications de dossiers de police auprès d'autorités législatives hors de l'Ontario dans des circonstances déterminées;
- h.1) prescrire des motifs justifiant le refus de délivrer un permis pour l'application de l'alinéa 9 c);
- h.2) prescrire des motifs justifiant la révocation ou le refus de renouveler un permis pour l'application de l'alinéa 10 e);
- h.3) exiger des auteurs de demande de permis ou de renouvellement de permis qu'ils fournissent des vérifications de dossiers de police;
- j.1) prescrire des personnes et entités ainsi que des délais pour l'application de l'alinéa 18 b);

Loi intitulée *Jewish Family and Child Service of Metropolitan Toronto Act, 1980*

19 (1) Le préambule de la loi intitulée *Jewish Family and Child Service of Metropolitan Toronto Act, 1980* est modifié par remplacement de «the *Child and Family Services Act, 1984*» par «the *Child, Youth and Family Services Act, 2017*».

(2) L'article 1 de la Loi est abrogé et remplacé par ce qui suit :

1 For the purposes of every Act, the Corporation is deemed to be a children's aid society designated under subsection 34 (1) of the *Child, Youth and Family Services Act, 2017* for the territorial jurisdiction in which it operates on the day that subsection comes into force, for all the functions set out in subsection 35 (1) of that Act.

(3) L'article 2 de la Loi est abrogé et remplacé par ce qui suit :

2 Despite section 1, the powers conferred on the Corporation to bring children to a place of safety under section 81 of the *Child, Youth and Family Services Act, 2017* shall be exercised only within the City of Toronto.

(4) L'article 3 de la Loi est abrogé.

(5) L'article 4 de la Loi est modifié par suppression de «Metropolitan» avant «Toronto».

Loi de 2007 sur les foyers de soins de longue durée

20 Le sous-alinéa 95 (2) a) (i) de la *Loi de 2007 sur les foyers de soins de longue durée* est abrogé et remplacé par ce qui suit :

(i) la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*,

Loi sur le ministère des Services sociaux et communautaires

21 Le sous-alinéa 7 b) (i) de la *Loi sur le ministère des Services sociaux et communautaires* est abrogé et remplacé par ce qui suit :

(i) soit qui est confié aux soins d'une société de façon prolongée en vertu de la partie V de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*,

Loi sur le ministère des Services correctionnels

22 L'alinéa 43 (3) a) de la *Loi sur le ministère des Services correctionnels* est modifié par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*».

Loi de 2001 sur les municipalités

23 (1) L'alinéa a) de la définition de «conseil local» au paragraphe 10 (6) de la *Loi de 2001 sur les municipalités* est abrogé et remplacé par ce qui suit :

a) une société au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

(2) L'alinéa 216 (3) a) de la Loi est abrogé et remplacé par ce qui suit :

a) une société au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

(3) L'alinéa a) de la définition de «conseil local» à l'article 223.1 de la Loi est abrogé et remplacé par ce qui suit :

a) une société au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

Loi de 1997 sur le programme Ontario au travail

24 L'alinéa 10 e) de la *Loi de 1997 sur le programme Ontario au travail* est modifié par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*».

Loi sur l'équité salariale

25 (1) L'appendice de l'annexe de la *Loi sur l'équité salariale* est modifié par remplacement de l'intertitre «Ministère des Services sociaux et communautaires» par ce qui suit :

Ministère des Services sociaux et communautaires

Ministère des Services à l'enfance et à la jeunesse

(2) Les alinéas 1 a), b), q), r) et t) sous l'intertitre énoncé au paragraphe (1) du présent article sont abrogés et remplacés par ce qui suit :

a) font fonctionner un foyer pour enfants aux termes d'un permis à cet effet délivré en vertu du paragraphe 254 (3) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

b) fournissent des soins en établissement aux termes d'un permis à cet effet délivré en vertu du paragraphe 254 (3) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* à moins que le fournisseur ne soit un parent de famille d'accueil;

- q) fournissent des services aux adolescents en vertu de la partie VI de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* ou aux termes d'une entente conclue avec le ministère des Services à l'enfance et à la jeunesse;
- r) fournissent des services à l'enfance financés ou achetés par le ministère des Services à l'enfance et à la jeunesse ou le ministère des Services sociaux et communautaires en vertu de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;
- t) fournissent un service financé ou fourni aux termes d'un permis à cet effet délivré sous le régime de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

(3) La disposition 2 sous l'intertitre énoncé au paragraphe (1) du présent article est abrogée et remplacée par ce qui suit :

- 2. Les sociétés, au sens de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

Loi sur les régimes de retraite

26 La disposition 9 du paragraphe 1 (5) de la *Loi sur les régimes de retraite* est modifiée par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*» à la fin de la disposition.

Loi sur les dévolutions perpétuelles

27 Le paragraphe 17 (2) de la *Loi sur les dévolutions perpétuelles* est abrogé et remplacé par ce qui suit :

Définition

(2) La définition qui suit s'applique au paragraphe (1).

«postérité» S'entend de la postérité d'une personne, qu'elle soit née dans le cadre ou hors du mariage, sous réserve des articles 217 et 218 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

Loi de 2004 sur la protection des renseignements personnels sur la santé

28 (1) La sous-disposition 2 ii du paragraphe 23 (1) de la *Loi de 2004 sur la protection des renseignements personnels sur la santé* est modifiée par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*» à la fin de la sous-disposition.

(2) L'alinéa 40 (3) b) de la *Loi* est modifié par remplacement de «en application de la partie IV de la *Loi sur les services à l'enfance et à la famille*» par «en application de la partie VI de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*».

(3) L'alinéa 43 (1) e) de la *Loi* est abrogé et remplacé par ce qui suit :

- e) au tuteur et curateur public, à l'avocat des enfants, à une société d'aide à l'enfance, à un comité consultatif sur les placements en établissement constitué en vertu du paragraphe 63 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* ou à un dépositaire désigné visé à l'article 223 de cette loi, pour leur permettre d'exercer les fonctions que leur attribue la loi;

Loi de 2015 sur la réforme des vérifications de dossiers de police

29 (1) La disposition 8 du paragraphe 2 (2) de la *Loi de 2015 sur la réforme des vérifications de dossiers de police* est abrogée et remplacée par ce qui suit :

- 8 Une recherche demandée par une société d'aide à l'enfance en vue d'exercer les fonctions visées au paragraphe 35 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

(2) Le point 6 du tableau de l'article 1 de l'annexe de la *Loi* est modifié par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*» dans la colonne 3 et la colonne 4.

Loi sur les hôpitaux privés

30 L'alinéa c) de la définition de «hôpital privé» à l'article 1 de la *Loi sur les hôpitaux privés* est abrogé et remplacé par ce qui suit :

- c) un foyer pour enfants détenteur d'un permis délivré en vertu de la partie IX (Permis d'établissement) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

Loi de 2007 sur l'intervenant provincial en faveur des enfants et des jeunes

31 (1) L'alinéa 1 a) de la *Loi de 2007 sur l'intervenant provincial en faveur des enfants et des jeunes* est abrogé et remplacé par ce qui suit :

- a) donner une voix indépendante aux enfants et aux jeunes, y compris les enfants et les jeunes inuits, métis et de Premières Nations et les enfants ayant des besoins particuliers, en s'associant avec eux pour mettre en avant des questions qui les touchent;

(2) Les définitions de «Commission de révision des services à l'enfance et à la famille», «directeur», «enfant», «jeune», «service», «service d'une société d'aide à l'enfance» et «titulaire de permis d'un foyer» au paragraphe 2 (1) de la Loi sont abrogées et remplacées par ce qui suit :

«Commission de révision des services à l'enfance et à la famille» La Commission de révision des services à l'enfance et à la famille prorogée en application de la partie XI de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («Child and Family Services Review Board»)

«directeur» Le directeur nommé en vertu du paragraphe 53 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («Director»)

«enfant» S'entend au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («child»)

«jeune» Adolescent au sens de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («youth»)

«service» Pour l'application des alinéas 1 d) et 15 (2) b), s'entend au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*, à l'exclusion d'un service visé à l'alinéa h) de cette définition. («service»)

«service d'une société d'aide à l'enfance» Les fonctions d'une société d'aide à l'enfance énumérées au paragraphe 35 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («children's aid society service»)

«titulaire de permis d'un foyer» Le titulaire d'un permis délivré en vertu de la partie IX de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («residential licensee»)

(3) Le paragraphe 2 (2) de la Loi est modifié par remplacement de «Loi sur les services à l'enfance et à la famille» par «Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille».

(4) Le paragraphe 3 (3) de la Loi est abrogé.

(5) Les alinéas 15 (1) a) et c) de la Loi sont abrogés et remplacés par ce qui suit :

- a) intervenir en faveur des enfants et des jeunes qui sollicitent ou reçoivent des services fournis ou financés en vertu de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* ou fournis en vertu d'un permis à cet effet délivré en vertu de cette loi;

.....

- c) promouvoir les droits que confère aux enfants recevant des soins la partie II de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

(6) L'alinéa 15 (4) a) de la Loi est modifié par remplacement de «Loi sur les services à l'enfance et à la famille» par «Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille».

(7) Les alinéas 16 (1) f), g), j), m) et o) de la Loi sont abrogés et remplacés par ce qui suit :

- f) fournir des conseils et faire des recommandations aux gouvernements, ministres, agences, fournisseurs de services et autres entités chargés des services qui sont, selon le cas :

(i) prévus par la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*,

(ii) prévus par les règlements;

- g) informer les enfants recevant des soins, leur famille et le personnel des agences et des fournisseurs de services des droits que confère à ces enfants la partie II de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

.....

- j) intervenir en faveur des enfants recevant des soins en ce qui concerne les plaintes présentées à l'égard des droits que confère la partie II de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

.....

- m) rencontrer les enfants qui ont été admis d'urgence à un programme de traitement en milieu fermé en application de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* afin de leur expliquer, dans un langage adapté à leur niveau de compréhension, leur droit de faire réviser leur admission;

.....

- o) fournir aux enfants et aux jeunes et à leur famille des renseignements sur la façon d'obtenir les services visés à l'alinéa 15 (1) a);

(8) Les dispositions 3 et 4 du paragraphe 16.4 (1) de la Loi sont abrogées et remplacées par ce qui suit :

3. Les questions qui font l'objet soit d'inspections en matière de délivrance de permis ou de révisions des ordonnances rendues en vertu de la disposition 3 du paragraphe 101 (1) ou de l'alinéa 116 (1) c) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*, soit d'inspections ou de révisions par le ministère, si le directeur est d'avis qu'une enquête par l'intervenant nuirait à ces inspections ou révisions.
4. Les questions pouvant être résolues par le biais d'un processus de règlement des plaintes ou de révision prévu par la présente loi ou par la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*, à l'exception des révisions visées aux dispositions 2 et 3 tant que le processus prévu n'a pas pris fin.

(9) Le paragraphe 18.1 (3) de la Loi est abrogé et remplacé par ce qui suit :

Obligation de déclaration prévue par la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*

(3) Le présent article n'a aucune incidence sur l'obligation de déclarer ses soupçons prévue à l'article 125 de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

(10) Le paragraphe 21.1 (2) de la Loi est abrogé et remplacé par ce qui suit :

Interdiction : identification d'un enfant

(2) Malgré la disposition 10 de l'article 20, l'intervenant ne doit pas divulguer dans son rapport d'enquête le nom de l'enfant visé par l'enquête ou des renseignements identificatoires se rapportant à cet enfant. Le présent article n'a pas pour effet de restreindre l'interdiction d'identifier un enfant énoncée au paragraphe 87 (8) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

Loi de 1997 sur les relations de travail liées à la transition dans le secteur public

32 La *Loi de 1997 sur les relations de travail liées à la transition dans le secteur public* est modifiée par adjonction de l'article suivant :

Sociétés d'aide à l'enfance

8.1 (1) La présente loi s'applique en cas de fusion de deux sociétés d'aide à l'enfance ou plus.

Employeurs précédents et employeur qui succède

(2) Pour l'application de la présente loi, les sociétés d'aide à l'enfance qui sont fusionnées sont les employeurs précédents et la société d'aide à l'enfance issue de la fusion est l'employeur qui succède.

Date du changement

(3) Pour l'application de la présente loi, la date du changement est la date à laquelle la fusion prend effet.

Définition

(4) La définition qui suit s'applique au présent article.

«société d'aide à l'enfance» Personne morale qui est une société d'aide à l'enfance sous le régime de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

Loi de 2006 sur la location à usage d'habitation

33 L'alinéa 5 e) de la *Loi de 2006 sur la location à usage d'habitation* est modifié par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*» à la fin de l'alinéa.

Loi de 1992 sur la prise de décisions au nom d'autrui

34 L'annexe de la *Loi de 1992 sur la prise de décisions au nom d'autrui* est modifiée par remplacement de «*Services à l'enfance et à la famille, Loi sur les*» par «*Services à l'enfance, à la jeunesse et à la famille, Loi de 2017 sur les*».

Loi sur les statistiques de l'état civil

35 (1) L'alinéa 10 (2) b) de la *Loi sur les statistiques de l'état civil* est abrogé et remplacé par ce qui suit :

- a) le consentement exigé en application de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* pour l'adoption de l'enfant a été donné ou n'a pas été exigé;

(2) Le paragraphe 28 (1) de la Loi est modifié par remplacement de «du paragraphe 162 (3) de la *Loi sur les services à l'enfance et à la famille*» par «du paragraphe 222 (3) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*».

(3) Les paragraphes 30 (1) et (2) de la Loi sont modifiés par remplacement de «*Loi sur les services à l'enfance et à la famille*» par «*Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*» partout où figure cette expression.

Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail

36 Les définitions de «adolescent», «lieu de détention provisoire en milieu fermé» et «lieu de garde en milieu fermé» au paragraphe 14 (1) de la *Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail* sont abrogées et remplacées par ce qui suit :

«adolescent» S'entend au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («young person»)

«lieu de détention provisoire en milieu fermé» S'entend au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («place of secure temporary detention»)

«lieu de garde en milieu fermé» S'entend au sens du paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. («place of secure custody»)

Entrée en vigueur

37 (1) Sous réserve des paragraphes (2), (3) et (4), la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) Le paragraphe 4 (1) entre en vigueur le premier jour où le paragraphe 1 (1) de la *Loi de 2016 sur l'égalité de toutes les familles (modifiant des lois en ce qui concerne la filiation et les enregistrements connexes)* et l'article 350 de l'annexe 1 de la *Loi de 2017 sur le soutien à l'enfance, à la jeunesse et à la famille* sont tous deux en vigueur.

(3) Le paragraphe 29 (1) entre en vigueur le premier jour où le paragraphe 2 (2) de la *Loi de 2015 sur la réforme des vérifications de dossiers de police* et le paragraphe 35 (1) de l'annexe 1 de la *Loi de 2017 sur le soutien à l'enfance, à la jeunesse et à la famille* sont tous deux en vigueur.

(4) Le paragraphe 29 (2) entre en vigueur le premier jour où le point 6 du tableau de l'article 1 de l'annexe de la *Loi de 2015 sur la réforme des vérifications de dossiers de police* et l'article 350 de l'annexe 1 de la *Loi de 2017 sur le soutien à l'enfance, à la jeunesse et à la famille* sont tous deux en vigueur.

NOTE EXPLICATIVE

*La note explicative, rédigée à titre de service aux lecteurs du projet de loi 89, ne fait pas partie de la loi.
Le projet de loi 89 a été édicté et constitue maintenant le chapitre 14 des Lois de l'Ontario de 2017.*

Le projet de loi est divisé en quatre annexes.

L'annexe 1 abroge la *Loi sur les services à l'enfance et à la famille* et édicte, à sa place, la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

L'annexe 2 modifie la *Loi sur les services à l'enfance et à la famille* pour le laps de temps où elle demeure en vigueur, à savoir jusqu'à la date de son abrogation par l'annexe 1.

L'annexe 3 modifie la nouvelle loi, c'est-à-dire la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

L'annexe 4 renferme des modifications connexes et autres apportées à 36 autres lois.

ANNEXE 1

LOI DE 2017 SUR LES SERVICES À L'ENFANCE, À LA JEUNESSE ET À LA FAMILLE

La loi actuelle fait mention des enfants indiens et autochtones et accorde certains droits d'avis et de participation à un représentant choisi par la bande ou la communauté autochtone à laquelle un enfant appartient. La nouvelle loi fait mention des enfants et adolescents inuits, métis et de Premières Nations et accorde des droits d'avis et de participation à un représentant choisi par chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles un enfant ou un adolescent appartient. La mention dans la nouvelle loi de bandes et de communautés inuites, métisses ou de Premières Nations auxquelles un enfant ou un adolescent appartient inclut toute bande dont l'enfant ou l'adolescent est membre, toute bande avec laquelle l'enfant ou l'adolescent s'identifie, toute communauté inuite, métisse ou de Premières Nations qui est énumérée dans un règlement et dont l'enfant ou l'adolescent est membre, et toute communauté inuite, métisse ou de Premières Nations qui est énumérée dans un règlement et avec laquelle l'enfant ou l'adolescent s'identifie.

Des modifications importantes sont apportées à la terminologie. Les termes «pupille de la société» et «pupille de la Couronne» ne sont plus employés. La nouvelle loi fait désormais mention d'enfants confiés aux soins d'une société de façon provisoire ou prolongée, respectivement, mais elle ne fait plus mention d'enfants abandonnés ou en fugue. Enfin, la nouvelle loi évoque le fait, d'une part, d'amener des enfants dans un lieu sûr au lieu de les appréhender et, d'autre part, de traiter de questions au lieu de traiter d'enfants.

Tout comme la *Loi sur les services à l'enfance et à la famille*, la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* est divisée en parties. Voici une explication de chaque partie et, en particulier, des différences par rapport à la loi actuelle.

Partie I - Objets et interprétation

L'objet primordial de la Loi, à savoir promouvoir l'intérêt véritable de l'enfant, sa protection et son bien-être, demeure le même que celui de la loi actuelle.

Les autres objets de la Loi sont élargis afin d'inclure ce qui suit :

Reconnaître que les services fournis aux enfants et aux adolescents devraient l'être d'une manière qui respecte les différences régionales, dans la mesure du possible, et tienne compte :

des besoins des enfants et des adolescents sur les plans physique, affectif, spirituel et mental et sur le plan du développement ainsi que des différences qui existent entre eux;

de la race de l'enfant ou de l'adolescent, de son ascendance, de son lieu d'origine, de sa couleur, de son origine ethnique, de sa citoveneté, de la diversité de sa famille, de son handicap, de sa croyance, de son sexe, de son orientation sexuelle, de son identité sexuelle et de l'expression de son identité sexuelle;

des besoins de l'enfant ou de l'adolescent sur les plans culturel et linguistique.

Reconnaître que les services fournis aux enfants, aux adolescents et à leur famille devraient l'être d'une manière qui tire parti des forces de la famille, dans la mesure du possible.

L'un des autres objets de la loi actuelle consiste à reconnaître que les services fournis aux familles et aux enfants indiens et autochtones devraient l'être d'une manière qui tienne compte de leur culture, de leur patrimoine, de leurs traditions et du concept de la famille élargie. Cet objet est modifié pour viser les enfants, les adolescents et les familles inuits, métis et de Premières Nations ainsi que leur culture, leur patrimoine et leurs traditions. De plus, il est élargi afin de reconnaître également les liens qui unissent ces enfants, ces adolescents et ces familles à leurs communautés.

Les autres objets de la Loi ne font plus précisément mention de la religion d'un enfant ou d'un adolescent. Toutefois, les croyances d'un enfant ou d'un adolescent font partie des facteurs à prendre en considération tout au long de la nouvelle loi. Le terme «croyance» est défini de manière à inclure la religion.

Partie II - Droits des enfants et des adolescents

Cette partie regroupe les droits des enfants et des adolescents énumérés à l'article 2 et aux parties I et V de la loi actuelle.

De nouvelles dispositions sont ajoutées pour prévoir ce qui suit : restreindre, d'une part, l'utilisation, par les fournisseurs de services et les parents de famille d'accueil, de contentions physiques sur les enfants et les adolescents, sauf dans les cas autorisés par les règlements et, d'autre part, l'utilisation de contentions mécaniques sur les enfants et les adolescents, sauf dans les cas permis par les parties VI (Justice pour les adolescents) et VII (Mesures extraordinaires) et les règlements. La nouvelle loi conserve la disposition de la loi actuelle interdisant aux fournisseurs de services de détenir un enfant dans des locaux fermés à clé, sauf dans les cas autorisés par les parties VI (Justice pour les adolescents) et VII (Mesures extraordinaires) de cette loi. Désormais, cette disposition s'applique expressément aux parents de famille d'accueil ainsi qu'aux fournisseurs de services et tant à l'égard des adolescents qu'à l'égard des enfants.

Par ailleurs, une nouvelle déclaration des droits des enfants et des adolescents est ajoutée au début de la partie. Elle comprend le droit, pour un enfant ou un adolescent, d'exprimer son opinion librement et sans risque de s'exprimer dans le cadre d'un dialogue honnête et respectueux, d'obtenir que son opinion soit dûment prise en considération eu égard à son âge et à son degré de maturité, et d'être informé, dans un langage adapté à son niveau de compréhension, de ses droits, ainsi que de l'existence et du rôle de l'intervenant provincial en faveur des enfants et des jeunes et de la manière de le contacter. Le protocole de la loi actuelle en ce qui a trait à la présentation de plaintes concernant les fournisseurs de services relatives aux prétendues violations des droits des enfants s'applique aussi sous le régime de la nouvelle loi aux plaintes relatives aux restrictions ou aux conditions imposées aux visiteurs et aux visites. Un enfant ou une autre personne peut présenter une plainte en tant que particulier ou en tant que membre d'un groupe.

Partie III - Financement et responsabilisation

Cette partie remplace la partie I de la loi actuelle. Les ajouts qui sont faits figurent ci-après.

Le ministre peut désigner des entités comme organismes responsables, lesquels doivent exercer les fonctions que les règlements attribuent à leur catégorie d'organismes responsables. Le ministre peut donner à certains fournisseurs de services et organismes responsables des directives à caractère contraignant. Le superviseur de programme peut donner à certains fournisseurs de services et organismes responsables des ordres de conformité en cas de non-conformité, notamment à la Loi, aux règlements ou aux directives.

Les fonctions des sociétés d'aide à l'enfance sont énoncées dans cette partie et demeurent essentiellement les mêmes. Une nouveauté réside dans le fait que les sociétés sont désormais tenues d'enquêter sur les allégations selon lesquelles un enfant a besoin de protection et de protéger les enfants qui leur sont confiés. Cette obligation vise tous les enfants jusqu'à leur 18^e anniversaire de naissance alors que, dans la loi actuelle, elle se limite aux enfants de moins de 16 ans et à ceux de 16 ou 17 ans qui font l'objet d'une ordonnance de protection.

Cette partie comprend maintenant une exigence selon laquelle la réception de fonds est subordonnée à la conclusion par chaque société d'une entente de responsabilisation avec le ministre. Cette exigence, qui se trouve actuellement dans les règlements pris en vertu de la Loi, devient une exigence légale dans la nouvelle loi. Le ministre peut donner aux sociétés des directives à caractère contraignant. Un directeur peut leur donner des ordres de conformité en cas de non-conformité, notamment à la Loi, aux règlements, à une entente de responsabilisation ou aux directives.

Si une société ne se conforme pas à un ordre de conformité, ou si le ministre est d'avis qu'il est dans l'intérêt public de le faire, le ministre peut donner divers arrêtés. Il peut notamment ordonner que la société prenne des mesures correctives, suspendre, modifier ou révoquer la désignation de la société, nommer ou remplacer des membres du conseil d'administration de la société, désigner ou remplacer un président du conseil, ou nommer un superviseur chargé d'administrer et de gérer la société. À moins que certaines conditions ne soient réunies, le ministre doit aviser la société de son intention de donner un tel arrêté et la société a le droit de présenter des observations écrites.

Cette partie énonce des règles lorsque deux sociétés ou plus se proposent de fusionner et d'être prorogées en une seule et même société. Le ministre peut, par arrêté, ordonner qu'une société fusionne avec une ou plusieurs autres sociétés ou procède à d'autres types de restructuration, s'il est d'avis qu'il est dans l'intérêt public de le faire. Le ministre doit aviser la société de son intention de donner un tel arrêté et la société a le droit de présenter des observations écrites portant sur les directives figurant dans l'arrêté, mais pas sur l'obligation de fusionner. Dans certaines circonstances, le ministre peut aussi nommer un superviseur chargé de mettre en application ou de faciliter la mise en application d'un tel arrêté. La société qui reçoit un avis d'une proposition d'arrêté visant une fusion ou une restructuration d'une autre façon doit en donner une copie aux employés concernés et à leurs agents négociateurs. À la réception de l'arrêté définitif visant la fusion ou la restructuration, la société doit donner un avis de l'arrêté aux employés concernés et à leurs agents négociateurs et aux autres personnes ou entités dont les contrats sont touchés par l'arrêté. Elle doit aussi mettre l'arrêté à la disposition du public.

Les règles permettant à un superviseur de programme d'entrer dans certains locaux et de les inspecter afin de s'assurer de la conformité à la Loi et aux règlements sont étendues. Cette partie énonce maintenant les règles applicables à de telles inspections avec ou sans mandat.

Les dispositions régissant les comités consultatifs sur les placements en établissement, qui figurent dans la partie II (Accès volontaire aux services) de la loi actuelle, se trouvent maintenant dans la présente partie de la nouvelle loi. Les modifications

suivantes y sont apportées : la loi actuelle énumère les personnes devant faire partie de ces comités, alors que la nouvelle loi prévoit que les comités peuvent comprendre les personnes énumérées; la nouvelle loi exige que les comités présentent un rapport de leurs activités au ministre chaque année et à sa demande; le droit de s'opposer à un placement en établissement et de demander à la Commission de révision des services à l'enfance et à la famille de réviser la décision d'un comité relativement à un placement en établissement n'est plus limité aux enfants de 12 ans ou plus.

Partie IV - Services à l'enfance et à la famille - Premières Nations, Inuits et Métis

Cette partie remplace la partie X de la loi actuelle.

Sous le régime de la loi actuelle, le ministre peut désigner des communautés autochtones pour l'application de la Loi. En vertu de la partie IV de la nouvelle loi, le ministre peut, par règlement, dresser des listes de communautés inuites, métisses et de Premières Nations pour l'application de la Loi, avec le consentement des représentants de la communauté concernée.

Un autre changement concerne le pouvoir de désignation d'un organisme comme fournisseur de services aux familles et aux enfants indiens ou autochtones que confère la loi actuelle à une bande ou une communauté autochtone. La partie IV de la nouvelle loi prévoit qu'une bande ou une communauté inuite, métisse ou de Premières Nations peut désigner un organisme comme fournisseur de services aux familles et aux enfants inuits, métis ou de Premières Nations.

Partie V - Protection de l'enfance

Cette partie remplace la partie III de la loi actuelle et apporte les modifications énoncées ci-après.

L'âge auquel un enfant peut avoir besoin de protection est étendu pour inclure les adolescents de 16 et 17 ans. En vertu de la nouvelle loi, les adolescents de 16 et 17 ans peuvent avoir besoin de protection et des circonstances ou conditions supplémentaires qui ne s'appliquent qu'à eux peuvent être prescrites en vue de l'établissement du besoin de protection. Toutefois, les adolescents de 16 et 17 ans ne peuvent pas être amenés dans un lieu sûr sans leur consentement. Les sociétés sont maintenant autorisées à conclure des ententes avec les adolescents de 16 et 17 ans ayant besoin de protection et à présenter des requêtes devant le tribunal.

Les circonstances à prendre en considération pour établir l'intérêt véritable de l'enfant ont changé. L'opinion et les désirs de l'enfant, eu égard à son âge et à son degré de maturité, sauf s'ils ne peuvent être établis, et, dans le cas d'un enfant inuit, métis ou de Premières Nations, l'importance de préserver l'identité culturelle de l'enfant et les liens qui l'unissent à la communauté doivent être dûment pris en considération. Tout autre facteur jugé pertinent, notamment une liste de 11 facteurs semblables à ceux énumérés dans la loi actuelle, doit lui aussi être pris en compte. Les différences entre les deux lois sont les suivantes : la loi actuelle inclut l'héritage culturel de l'enfant dans la liste de facteurs, alors que la nouvelle loi mentionne le patrimoine culturel et linguistique de l'enfant. La loi actuelle inclut aussi la croyance religieuse dans laquelle l'enfant est élevé, alors que la nouvelle loi comprend la race de l'enfant, son ascendance, son lieu d'origine, sa couleur, son origine ethnique, sa citoyenneté, la diversité de sa famille, son handicap, sa croyance, son sexe, son orientation sexuelle, son identité sexuelle et l'expression de son identité sexuelle.

Le pouvoir qu'ont les sociétés de conclure des ententes volontaires avec des personnes temporairement incapables de fournir des soins à leurs enfants et avec des adolescents est transféré de la partie II (Accès volontaire aux services) de la loi actuelle à la partie V de la nouvelle loi. Des ententes relatives à des soins temporaires peuvent être conclues à l'égard d'un enfant de tout âge et ne sont plus restreintes aux enfants de moins de 16 ans. Le pouvoir de conclure une entente relative à des besoins particuliers ne figure pas dans la nouvelle loi.

Sous le régime de la loi actuelle, une personne qui a plus de 18 ans peut recevoir d'une société des soins et de l'entretien prolongés si elle faisait l'objet d'une ordonnance de garde ou d'une ordonnance de tutelle par la Couronne qui a expiré à son 18^e anniversaire de naissance ou à son mariage, si elle était admissible à des services de soutien quand elle avait 16 ou 17 ans, qu'elle ait effectivement reçu ou non de tels services ou, dans le cas d'une personne indienne ou autochtone, si elle recevait des soins conformes aux traditions immédiatement avant son 18^e anniversaire de naissance. L'article comparable de la nouvelle loi prévoit désormais que la prestation de soins et de soutien continu est obligatoire dans les circonstances énumérées dans la loi actuelle et il ajoute une autre circonstance, à savoir quand la personne a conclu une entente avec la société alors que la personne était âgée de 16 ou 17 ans et que l'entente expire à son 18^e anniversaire de naissance. De plus, le nouvel article utilise la terminologie à jour : personne inuite, métisse ou de Premières Nations et enfants confiés aux soins d'une société de façon prolongée.

Une société est tenue de faire tous les efforts raisonnables pour mettre en oeuvre un plan de soins conformes aux traditions pour un enfant inuit, métis ou de Premières Nations si l'enfant a besoin de protection, qu'il ne peut pas continuer de vivre avec la personne qui en était responsable immédiatement avant l'intervention de la société ou la personne qui a le droit d'en avoir la garde, ou ne peut être rendu à l'une de ces deux personnes, et qu'il est membre d'une bande ou d'une communauté inuite, métisse ou de Premières Nations ou s'identifie à une bande ou communauté. Les soins conformes aux traditions s'entendent des soins fournis à un enfant inuit, métis ou de Premières Nations et de la surveillance d'un tel enfant, par une personne qui n'est pas un parent de l'enfant, conformément à la coutume de la bande ou de la communauté inuite, métisse ou de Premières Nations à laquelle l'enfant appartient.

La nouvelle loi ne comporte pas de disposition équivalente à l'article 86 de la loi actuelle, lequel interdit qu'un enfant catholique soit confié aux soins d'une société ou d'un établissement protestants ou d'une famille protestante et qu'un enfant

protestant soit confié aux soins d'une société ou d'un établissement catholiques ou d'une famille catholique. La société est désormais tenue de choisir un placement en établissement qui, dans la mesure du possible, respecte la race de l'enfant, son ascendance, son lieu d'origine, sa couleur, son origine ethnique, sa citoyenneté, la diversité de sa famille, sa croyance, son sexe, son orientation sexuelle, son identité sexuelle, l'expression de son identité sexuelle et son patrimoine culturel et linguistique. Dans le cas d'un enfant inuit, métis ou de Premières Nations, la priorité doit être accordée à tout placement dans une famille inuite, métisse ou de Premières Nations, respectivement.

L'obligation qu'a chaque personne de déclarer ses soupçons quant au besoin de protection d'un enfant s'applique uniquement à l'égard d'un enfant de moins de 16 ans. Il est toutefois possible de déclarer le besoin de protéger un enfant de 16 ou 17 ans.

Partie VI - Justice pour les adolescents

Cette partie incorpore la partie IV de la loi actuelle avec les modifications indiquées ci-après.

La partie précise maintenant qu'une personne responsable d'un lieu de garde en milieu ouvert ou en milieu fermé ou d'un lieu de détention provisoire peut autoriser certains types de perquisition ou de fouille conformément aux règlements et prévoit que tout objet interdit trouvé lors d'une perquisition ou d'une fouille peut être saisi et qu'il peut en être disposé conformément aux règlements.

La partie impose également des restrictions concernant l'utilisation de contentions mécaniques dans les lieux de garde en milieu fermé ou les lieux de détention provisoire en milieu fermé.

Partie VII - Mesures extraordinaires

Cette partie remplace la partie VI de la loi actuelle et apporte les modifications indiquées ci-après.

Un article est ajouté pour établir les restrictions concernant l'utilisation de contentions mécaniques dans les programmes de traitement en milieu fermé.

La loi actuelle permet qu'un enfant ou un adolescent soit placé dans une pièce d'isolement sous clé; sous le régime de la nouvelle loi, un enfant ou un adolescent peut être placé dans une pièce de désescalade sous clé.

À l'heure actuelle, les fournisseurs de services sont tenus de se conformer aux normes prescrites par règlement concernant, d'une part, la période pendant laquelle un adolescent âgé de 16 ans ou plus qui se trouve dans un lieu de garde en milieu fermé ou de détention provisoire en milieu fermé peut être détenu dans une pièce d'isolement sous clef et, d'autre part, la surveillance de cet adolescent. Le texte de la nouvelle loi énonce maintenant les normes en matière de durée de détention et de surveillance des adolescents placés dans des pièces de désescalade sous clé.

Partie VIII - Adoption et délivrance de permis relatifs à l'adoption

Cette partie s'appuie sur la partie VII de la loi actuelle.

Les circonstances à prendre en considération pour établir l'intérêt véritable d'un enfant ont changé. Les modifications sont les mêmes que celles énoncées précédemment à la partie V - Protection de l'enfance.

Un nouveau processus en deux étapes est mis en place dans le cas où un titulaire de permis amène en Ontario un enfant qui ne réside pas au Canada pour le placer en vue de son adoption. Dans un premier temps, le titulaire de permis doit obtenir l'approbation du directeur selon laquelle la personne auprès de qui l'enfant doit être placé a la capacité juridique et l'aptitude à adopter, sur la base d'un rapport sur l'étude du milieu familial. Le titulaire de permis doit ensuite obtenir l'approbation du directeur en ce qui concerne le placement projeté.

La loi actuelle prévoit la possibilité de déroger à certaines exigences si l'enfant est placé en vue de son adoption auprès d'un membre de sa parenté, d'un parent ou du conjoint d'un parent. Dans la nouvelle loi, la dérogation ne s'applique que si l'enfant réside au Canada et que le placement a lieu en Ontario. La loi actuelle prévoit également une dérogation aux mêmes exigences si l'enfant est envoyé hors de l'Ontario en vue de son adoption par un membre de sa parenté, un parent ou le conjoint d'un parent. Dans la nouvelle loi, la dérogation ne s'applique que si le placement a lieu au Canada.

Les sociétés qui commencent à planifier l'adoption d'un enfant inuit, métis ou de Premières Nations doivent désormais tenir compte de l'importance, pour l'enfant, de nouer ou de maintenir des liens avec les bandes et communautés inuites, métisses ou de Premières Nations auxquelles il appartient.

Le tribunal continue de pouvoir rendre une ordonnance de communication à l'égard d'un enfant afin de faciliter la communication ou de maintenir une relation entre l'enfant et certaines personnes. Un nouveau type d'ordonnance de communication est prévu dans le cas où une société a l'intention de placer un enfant inuit, métis ou de Premières Nations confié aux soins d'une société de façon prolongée en vue de son adoption. Dans de telles circonstances, l'enfant, la société ou un représentant qu'a choisi chacune des bandes et communautés inuites, métisses ou de Premières Nations auxquelles l'enfant appartient peut présenter une requête en ordonnance de communication. Le tribunal peut rendre ce type d'ordonnance de communication s'il est convaincu que l'ordonnance est dans l'intérêt véritable de l'enfant et qu'elle aidera l'enfant à nouer ou à maintenir des liens avec la culture, le patrimoine et les traditions de la communauté inuite, métisse ou de Premières Nations à laquelle il appartient et à préserver son identité culturelle et les liens qui l'unissent à la communauté. Si l'enfant a 12 ans ou plus, il doit consentir à l'ordonnance de communication.

Dans les diverses dispositions portant sur les requêtes et les instances relatives aux ordonnances de communication, l'avis a un enfant doit être donné en remettant une copie à l'avocat des enfants, à l'avocat de l'enfant, s'il y a lieu, et à l'enfant, s'il a 12 ans ou plus. Un enfant a le droit de participer à l'instance comme s'il y était partie.

Si un enfant a été placé en vue de son adoption mais que la société a décidé de ne pas compléter les formalités de l'adoption ou que l'enfant est renvoyé aux soins d'une société après qu'une ordonnance d'adoption a été rendue, la société est désormais tenue de faire tous les efforts raisonnables pour aider un enfant à maintenir des relations avec des personnes qui sont bénéfiques et importantes pour lui.

Les règles en matière de délivrance de permis relatifs à l'adoption énoncées dans la partie IX de l'ancienne loi se trouvent désormais dans cette partie et demeurent essentiellement les mêmes.

Partie IX - Permis d'établissement

Cette partie remplace la partie IX de la loi actuelle. L'actuelle partie IX traite de la délivrance de permis d'établissement et de permis relatifs à l'adoption. Dans la nouvelle loi, les dispositions ayant trait à la délivrance de permis relatifs à l'adoption ont été transférées à la partie VIII.

Comme dans la loi actuelle, un permis est exigé pour faire fonctionner un foyer pour enfants ou pour fournir des soins en établissement dans des circonstances déterminées. La partie IX de la nouvelle loi prévoit désormais la prise de règlements pour prescrire tout autre foyer comme foyer pour enfants.

Cette partie comprend un certain nombre de nouvelles dispositions. Le ministre peut donner des directives à caractère contraignant aux titulaires de permis. Le ministre peut publier certains renseignements à l'égard des permis et des demandes de permis. Les permis doivent être délivrés ou renouvelés pour une durée déterminée. Le directeur peut attribuer une catégorie à un permis. Lorsqu'il délivre ou renouvelle un permis, le directeur peut indiquer sur le permis le nombre maximal d'enfants à qui le titulaire de permis peut fournir des soins en établissement. Le titulaire de permis doit exiger les droits indiqués dans les règlements ou calculés conformément à ceux-ci au titre de la prestation de soins en établissement, sauf si un règlement le soustrait à l'application de cette exigence.

Les règles concernant le droit de demander une audience devant le Tribunal d'appel en matière de permis et d'interjeter appel des décisions du Tribunal demeurent essentiellement les mêmes.

Les pouvoirs que confère la loi actuelle à un superviseur de programme pour effectuer des inspections concernant la délivrance de permis d'établissement sont remplacés par les pouvoirs conférés à un inspecteur pour effectuer de telles inspections afin d'assurer la conformité à la Loi, aux règlements et aux directives. La partie énonce désormais les règles applicables à de telles inspections avec ou sans mandat.

Partie X - Renseignements personnels

Cette partie remplace la partie VIII très limitée de la loi actuelle et est essentiellement nouvelle. Elle s'inspire des dispositions de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*.

La partie énonce des règles détaillées concernant ce qui suit : la collecte, l'utilisation et la divulgation de renseignements personnels par le ministre et par des fournisseurs de services; l'établissement de la capacité d'un particulier à donner, à refuser ou à retirer son consentement à la collecte, à l'utilisation ou à la divulgation des renseignements personnels le concernant; l'autorisation d'un mandataire spécial à donner, à refuser ou à retirer un consentement au nom d'un particulier; la conservation et la protection de renseignements personnels par des fournisseurs de services; le droit d'un particulier d'avoir accès aux dossiers de renseignements personnels le concernant dont un fournisseur de services a la garde et le contrôle et de demander à celui-ci de rectifier ces renseignements; le droit d'un particulier de porter plainte devant le commissaire à l'information et à la protection de la vie privée à l'égard de toute contravention à la partie; les pouvoirs et fonctions du commissaire à l'information et à la protection de la vie privée sous le régime de la présente partie.

Partie XI - Dispositions diverses

Cette partie incorpore la partie XII de la loi actuelle avec les modifications indiquées ci-après.

L'une des nouveautés de cette partie réside dans le fait que le lieutenant-gouverneur en conseil peut, par règlement, exiger de certaines personnes, y compris de celles qui fournissent ou reçoivent des services en application de la Loi, qu'elles fournissent une vérification de dossier de police à une autre personne ou à un autre organisme. De plus, une société peut, dans les circonstances prescrites ou à une fin prescrite, demander à un corps de police de procéder à des vérifications de dossiers de police ou de lui fournir d'autres renseignements prescrits.

Sous le régime de la loi actuelle, le ministre doit procéder périodiquement à l'examen de la Loi ou des dispositions de la Loi qu'il précise. Cet examen doit comprendre un examen des dispositions qui imposent des obligations aux sociétés lorsqu'elles fournissent des services à une personne indienne ou autochtone. La partie XI de la nouvelle loi prévoit que l'examen doit aborder les questions suivantes : les droits des enfants et des adolescents, les dispositions imposant des obligations aux sociétés lorsqu'elles fournissent des services à une personne muette, métisse ou de Premières Nations; l'autre objet de la Loi relatif aux Premières Nations, aux Inuits et aux Métis, afin d'évaluer les progrès accomplis en vue de réaliser cet objet. Enfin, la partie exige aussi que le ministre consulte des enfants et des adolescents lorsqu'il effectue un examen.

Partie XII - Règlements

Comme dans la loi actuelle, le pouvoir de prendre des règlements relatifs à chaque partie de la Loi est énoncé dans une partie autonome. De plus, l'article 339 autorise le lieutenant-gouverneur en conseil et le ministre à prendre des règlements pour l'application de la Loi dans son ensemble, y compris des règlements régissant les questions transitoires pouvant découler de l'édiction de la nouvelle loi et de l'abrogation de la loi actuelle.

ANNEXE 2 MODIFICATIONS DE LA LOI SUR LES SERVICES À L'ENFANCE ET À LA FAMILLE

Cette annexe modifie l'actuelle *Loi sur les services à l'enfance et à la famille* de la manière précisée ci-dessous.

Les modifications indiquées ci-après visent à anticiper l'extension de l'âge auquel un enfant peut avoir besoin de protection (de 16 ans à 18 ans) dans la nouvelle loi à l'annexe 1. Les alinéas 15 (3) a) et b) de la Loi sont réédités pour faire en sorte que la fonction des sociétés en matière d'enquête sur les allégations selon lesquelles un enfant peut avoir besoin de protection et de protection des enfants confiés à leurs soins ne soit plus limitée aux enfants de moins de 16 ans ou faisant déjà l'objet d'une ordonnance de protection. L'article 27 de la Loi est modifié pour préciser qu'un fournisseur de services doit obtenir une ordonnance du tribunal ou le consentement d'une personne de 16 ans ou plus avant de lui fournir un service. Le paragraphe 29 (2) de la Loi est réédité pour permettre la conclusion d'ententes relatives à des soins temporaires à l'égard d'enfants de 16 ans ou plus. La définition de «enfant» au paragraphe 37 (1) de la Loi, qui exclut les enfants qui ont réellement ou apparemment 16 ans ou plus pour l'application de la partie III (Protection de l'enfance), est abrogée, ce qui signifie que, pour l'application de la partie III, un enfant s'entend d'une personne de moins de 18 ans. Le paragraphe 37 (2) de la Loi est modifié pour prévoir que les circonstances ou situations supplémentaires dans lesquelles un enfant de 16 ou 17 ans peut avoir besoin de protection peuvent être prescrites par règlement. Enfin, l'article 40 est modifié et les nouveaux articles 40.1 et 46.1 prévoient qu'une société peut amener dans un lieu sûr, uniquement avec son consentement, un enfant de 16 ou 17 ans qui fait l'objet d'une ordonnance de surveillance et qu'elle doit, le plus tôt possible et, au plus tard, dans les cinq jours après avoir amené l'enfant dans un lieu sûr, saisir un tribunal de l'affaire ou rendre l'enfant à la personne qui a le droit d'en avoir la garde.

Le nouvel article 37.1 autorise un enfant de 16 ou 17 ans à conclure une entente avec une société relativement à la prestation de services et de soutiens si la société établit que l'enfant a ou peut avoir besoin de protection, qu'elle est convaincue qu'aucun autre plan d'action moins perturbateur n'est adéquat et que l'enfant veut conclure l'entente.

L'article 57 de la Loi est modifié pour prévoir qu'un tribunal ne doit rendre aucune ordonnance en vertu de cet article à l'égard d'un enfant qui s'est soustrait à l'autorité parentale avant ou après l'intervention prévue sous le régime de la partie III, si le tribunal n'est pas convaincu qu'une ordonnance soit nécessaire pour protéger l'enfant à l'avenir et ce, même si celui-ci a besoin de protection.

L'article 71.1 de la Loi est modifié afin de permettre qu'une société assume les soins et l'entretien d'une personne de 18 ans ou plus si celle-ci a conclu avec la société une entente en ce sens quand elle avait 16 ou 17 ans et que cette entente a expiré à son 18^e anniversaire de naissance.

L'obligation de communication de soupçons selon lesquels un enfant a besoin de protection, qui est prévue à l'article 72, est modifiée pour permettre la communication de soupçons de ce genre à l'égard d'enfants de 16 ou 17 ans, sans toutefois en faire une exigence.

Toutes les modifications mentionnées précédemment sont apportées en prévision des dispositions de la nouvelle loi. Toutefois, il est prévu que ces modifications apportées à la loi actuelle entrent en vigueur avant la nouvelle loi.

ANNEXE 3 MODIFICATIONS DE LA LOI DE 2017 SUR LES SERVICES À L'ENFANCE, À LA JEUNESSE ET À LA FAMILLE

Cette annexe modifie la nouvelle *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* de la manière décrite ci-dessous.

Les articles 133 et 134 de la Loi, qui prévoient la tenue d'un registre des mauvais traitements infligés aux enfants, sont abrogés. Des modifications corrélatives sont apportées à d'autres articles pour supprimer tous les renvois aux articles 133 et 134.

Le paragraphe 206 (1) de la Loi permet au tribunal de changer le nom de famille et le prénom de l'adopté. Ce paragraphe est réédité pour permettre au tribunal de changer le nom de famille de l'adopté, son prénom, les deux, ou son nom unique. Le tribunal peut aussi changer le nom unique de la personne et lui donner un nom composé d'au moins un prénom et un nom de famille ou changer le prénom et le nom de famille de la personne et lui donner un nom unique. Les noms uniques doivent être établis conformément à la culture traditionnelle de l'adopté ou à celle du ou des requérants.

Les renvois à la *Loi sur les personnes morales* sont remplacés par des renvois à la *Loi de 2010 sur les organisations sans but lucratif*, qui n'est pas encore proclamée.

ANNEXE 4
MODIFICATIONS D'AUTRES LOIS

Cette annexe contient des modifications apportées à 36 autres lois, la plupart découlant de l'abrogation de la *Loi sur les services à l'enfance et à la famille* et de l'édiction de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. Une grande partie de ces modifications ne visent qu'à mettre à jour les renvois et la terminologie.

Les lois visées ci-après sont modifiées de manière plus substantielle.

La *Loi de 1998 sur l'adoption internationale* est modifiée afin de la rendre plus conforme aux exigences en matière d'adoption et de délivrance de permis relatifs à l'adoption de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*. Plus particulièrement, des modifications sont apportées afin d'exiger des vérifications de dossiers de police, de donner au directeur nommé sous le régime de cette loi le pouvoir de révoquer un permis ou de refuser de le délivrer ou de le renouveler pour faciliter des adoptions internationales, de clarifier les pouvoirs d'inspection à l'égard des titulaires de permis et de modifier les dispositions relatives aux peines.

La loi intitulée *Jewish Family and Child Service of Metropolitan Toronto Act, 1980* est modifiée pour prévoir que la société créée en vertu de cette loi est réputée être une société d'aide à l'enfance désignée en vertu de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* et qu'elle ne peut exercer son pouvoir d'amener des enfants dans un lieu sûr que dans les limites de la cité de Toronto. Les dispositions en matière de gouvernance de la loi spéciale sont abrogées, ce qui signifie que la société est assujettie aux dispositions en matière de gouvernance de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*.

La *Loi de 1997 sur les relations de travail liées à la transition dans le secteur public* est modifiée de manière à s'appliquer automatiquement en cas de fusion de deux sociétés d'aide à l'enfance ou plus.

Les seules modifications de cette annexe qui ne découlent pas de l'abrogation de la *Loi sur les services à l'enfance et à la famille* et de l'édiction de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille* sont celles apportées à la *Loi sur l'accès à l'information et la protection de la vie privée*. Les paragraphes 65 (8) et 67 (2) de cette loi sont modifiés pour corriger des renvois à d'autres lois.

CHAPTER 15

An Act to provide for Anti-Racism Measures

Assented to June 1, 2017

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Preamble

Everyone deserves to be treated with fairness, respect and dignity, and the Government of Ontario is committed to eliminating systemic racism and advancing racial equity.

Systemic racism is a persistent reality in Ontario, preventing many from fully participating in society and denying them equal rights, freedoms, respect and dignity.

Systemic racism is often caused by policies, practices and procedures that appear neutral but have the effect of disadvantaging racialized groups. It can be perpetuated by a failure to identify and monitor racial disparities and inequities and to take remedial action.

Systemic racism is experienced in different ways by different racialized groups. For example, anti-Indigenous racism, anti-Black racism, antisemitism and Islamophobia reflect histories of systemic exclusion, displacement and marginalization.

Eliminating systemic racism and advancing racial equity supports the social, economic and cultural development of society as a whole, and everyone benefits when individuals and communities are no longer marginalized.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1 (1) In this Act,

"applicable data standards" means, in relation to a public sector organization, the part of the data standards that apply with respect to the organization under regulations made under clause 6 (5) (c); ("normes applicables relatives aux données")

"de-identify", in relation to the personal information of an individual, means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual; ("anonymiser")

“Minister” means the Minister Responsible for Anti-Racism or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)

“public funds” means funds provided by the Government of Ontario or a public body designated in regulations made under the *Public Service of Ontario Act, 2006* but does not include any funds that are,

- (a) paid in exchange for the provision of goods or services to the Government of Ontario or public body, or
- (b) provided by the Government of Ontario or public body by way of a loan or loan guarantee; (“fonds publics”)

“public sector organization” means,

- (a) a ministry of the Government of Ontario,
- (b) a public body designated in regulations made under the *Public Service of Ontario Act, 2006*,
- (c) a municipality,
- (d) a local board as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*,
- (e) a board as defined in subsection 1 (1) of the *Education Act*,
- (f) a university that receives regular and ongoing operating funds from the Government of Ontario for the purposes of post-secondary education or a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*,
- (g) a local health integration network as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*,
- (h) a health service provider within the meaning of the *Local Health System Integration Act, 2006* other than a person that operates a private hospital within the meaning of the *Private Hospitals Act*, unless the person received public funds for the operation of the hospital in the previous fiscal year of the Government of Ontario,
- (i) a person described in clause (b), (c) or (d) of the definition of “service provider” in subsection 3 (1) of the *Child and Family Services Act*,
- (j) a district social services administration board established under the *District Social Services Administration Boards Act*,
- (k) a person who operates or maintains a correctional institution within the meaning of the *Ministry of Correctional Services Act*, and
- (l) an organization that received \$1,000,000 or more in public funds in the previous fiscal year of the Government of Ontario, other than,
 - (i) the Office of the Lieutenant Governor, or
 - (ii) the Office of the Assembly or the office of an officer of the Assembly; (“organisation du secteur public”)

“research ethics board” means a board of persons that is established for the purpose of approving research plans under section 8 and that meets the requirements prescribed by regulation for the purposes of this definition. (“commission d’éthique de la recherche”)

Human Rights Code

(2) Nothing in this Act shall be interpreted or applied so as to reduce any right or entitlement under the *Human Rights Code*.

Anti-racism strategy

2 (1) The Government of Ontario shall maintain an anti-racism strategy that aims to eliminate systemic racism and advance racial equity.

Contents of strategy

(2) The strategy shall include the following:

1. Initiatives to eliminate systemic racism, including initiatives to identify and remove systemic barriers that contribute to inequitable racial outcomes.
2. Initiatives to advance racial equity.
3. Targets and indicators to measure the strategy’s effectiveness.

Same

(3) The initiatives referred to in paragraph 1 of subsection (2) shall include initiatives to assist racialized groups that are most adversely impacted by systemic racism, including Indigenous and Black communities.

Same

(4) The initiatives referred to in paragraph 2 of subsection (2) shall include initiatives to address the adverse impact of different forms of racism, including anti-Indigenous racism, anti-Black racism, antisemitism and Islamophobia.

Strategy continued

(5) The document entitled “A Better Way Forward: Ontario’s 3-Year Anti-Racism Strategic Plan” published on March 7, 2017 is continued as the anti-racism strategy under subsection (1).

Transition — targets and indicators

(6) The Government of Ontario shall establish and publish the first targets and indicators required under paragraph 3 of subsection (2) on a Government of Ontario website within 12 months after the coming into force of this section.

Same

(7) The targets and indicators published in accordance with subsection (6) are deemed to form part of the anti-racism strategy.

Progress reports on anti-racism strategy

3 (1) The Minister shall prepare progress reports on the anti-racism strategy which shall include information on the strategy’s initiatives, targets and indicators.

Deadline for reports

(2) The first report shall be prepared within 12 months after the day on which the targets and indicators are published in accordance with subsection 2 (6), and subsequent reports shall be prepared on or before the anniversary of the day that the first report was prepared in each subsequent year.

Review of anti-racism strategy

4 (1) At least every five years, the Government of Ontario shall review the anti-racism strategy.

Consultation

(2) As part of the review, the Minister,

- (a) shall inform the public that the strategy is being reviewed and solicit the views of the public with respect to the strategy; and
- (b) shall consult, in the manner the Minister considers appropriate, with such community organizations, individuals, other levels of government and stakeholders, as the Minister considers appropriate.

Same

(3) The Minister shall ensure that members and representatives of communities that are most adversely impacted by racism, including Indigenous, Black and Jewish communities and communities that are adversely impacted by Islamophobia, are consulted with under clause (2) (b).

Amendment of the strategy

(4) After a review is completed, the Government of Ontario shall do one of the following:

- 1. Amend the strategy.
- 2. Replace the strategy with a new one.
- 3. Continue the existing strategy.

Same

(5) In determining what to do under subsection (4), the Government of Ontario shall consider how different racialized groups are adversely impacted by systemic racism, including anti-Indigenous racism, anti-Black racism, antisemitism and Islamophobia.

Same

(6) A strategy that has been amended, replaced or continued under subsection (4) shall set out the date on which it was amended, replaced or continued.

Consultation on anti-racism strategy

5 (1) The Minister may, before the first review or in between subsequent reviews under section 4, consult on the anti-racism strategy in the manner and at such times as the Minister considers appropriate with such community organizations, individuals, other levels of government and stakeholders, as the Minister considers appropriate.

Same

(2) The Minister shall ensure that members and representatives of communities that are most adversely impacted by racism, including Indigenous, Black and Jewish communities and communities that are adversely impacted by Islamophobia, are consulted with under subsection (1).

Amendment of the strategy

(3) After the consultation, the Minister may amend the strategy, but the Minister may not amend any of its targets or indicators.

Data standards

6 (1) The Minister, with the approval of the Lieutenant Governor in Council, shall establish data standards for the collection, use and management of information, including personal information, to identify and monitor systemic racism and racial disparities for the purpose of eliminating systemic racism and advancing racial equity.

Required content

(2) The data standards shall provide for,

- (a) the collection of information, including personal information and any circumstances in which personal information may be collected other than directly from the individual to whom the information relates;
- (b) the use, including the analysis, of information, including personal information;
- (c) the de-identification of personal information and the disclosure of de-identified information;
- (d) reporting on the use, including the analysis, of information, including personal information; and
- (e) the retention, security and secure disposal of personal information.

Amendments

(3) The Minister, with the approval of the Lieutenant Governor in Council, may amend the data standards.

Consultation

(4) The Minister shall consult with the Information and Privacy Commissioner and the Chief Commissioner of the Ontario Human Rights Commission before establishing or amending the data standards.

Regulations

(5) The Lieutenant Governor in Council may make regulations,

- (a) requiring public sector organizations to collect specified information, including personal information, in relation to specified programs, services and functions;
- (b) authorizing public sector organizations to collect specified personal information in relation to specified programs, services and functions;
- (c) providing for all or part of the data standards to apply with respect to personal information a public sector organization is required or authorized to collect under a regulation made under clause (a) or (b), including requiring the organization to comply with all or part of the data standards.

Limitation

(6) Personal information may not be specified under a regulation made under clause (5) (a) or (b) unless it is listed in the data standards.

Exclusion relating to health information custodians

(7) A regulation made under clause (5) (a) or (b) does not apply to a public sector organization in relation to a program, service or function if the organization, in providing that program or service, or carrying out that function, is a health information custodian, as defined in the *Personal Health Information Protection Act, 2004*.

No withholding of services, etc. if information not provided

(8) No program, service or benefit shall be withheld because a person does not provide, or refuses to provide, information under the data standards or the regulations made under subsection (5).

Authority in addition to other authority

(9) Authority to collect personal information under a regulation made under clause (5) (b) is in addition to, and does not derogate from, any other authority a public sector organization may have to collect personal information for the purpose specified in subsection 7 (2).

Personal information collected under regulations

7 (1) This section applies with respect to the collection of personal information as required or authorized under a regulation made under clause 6 (5) (a) or (b).

Purpose of collection

(2) The purpose for collecting the personal information under this Act is to eliminate systemic racism and advance racial equity.

Manner of collection

(3) The personal information shall be collected directly from the individual to whom the information relates unless another manner of collection is authorized by the applicable data standards.

Notice to individual — direct collection

(4) If the personal information is collected directly from the individual to whom the information relates, the public sector organization shall inform the individual that the collection is authorized under this Act and shall also inform the individual of:

- (a) the purpose for which the personal information is intended to be used;
- (b) the fact that, under subsection 6 (8), no program, service or benefit may be withheld because the individual does not provide, or refuses to provide, the personal information; and
- (c) the title and contact information, including an email address, of an employee who can answer the individual's questions about the collection.

Notice — indirect collection

(5) If personal information is collected other than directly from the individual to whom the information relates, the public sector organization shall, before collecting information in that manner, ensure that a notice is published on a website that the collection is authorized or required under this Act and also stating,

- (a) the types of personal information that may be collected in that manner and the circumstances in which personal information may be collected in that manner;
- (b) the purpose for which the personal information collected in that manner is intended to be used; and
- (c) the title and contact information, including an email address, of an employee who can answer an individual's questions about the collection.

Limit on use

(6) The public sector organization shall not use the collected personal information for a purpose other than the purpose specified in subsection (2).

Exceptions to limit on use

(7) Subsection (6) does not apply to personal information lawfully collected by a public sector organization for another purpose in addition to the purpose specified in subsection (2).

Limits if collection is authorized under cl. 6 (5) (b)

(8) A public sector organization shall not use personal information collected as authorized under a regulation made under clause 6 (5) (b) if the use of other information will meet the purpose specified in subsection (2) and shall not use more of such personal information than is reasonably necessary to meet that purpose.

De-identification

(9) The public sector organization shall de-identify the collected personal information as required under the applicable data standards.

Retention

(10) The public sector organization shall retain the collected personal information for the period specified in the applicable data standards or, if there is no such specified period, for at least one year after the day it was last used by the organization.

Security

(11) The public sector organization shall take reasonable measures to secure the collected personal information

Accuracy

(12) Before using the collected personal information for the purpose specified in subsection (2), the public sector organization shall take reasonable steps to ensure that the information is as accurate as is necessary for that purpose.

Limits on access

(13) The public sector organization shall limit access to the collected personal information to officers, employees, consultants and agents of the organization who need access to the information in the performance of their duties in connection with anything the organization is required to do, or may do, under this Act, the regulations or the applicable data standards.

Limit on disclosure

(14) The public sector organization may disclose the collected personal information only if,

- (a) the person to whom the information relates has identified that information in particular and consented to its disclosure;
- (b) the disclosure is required by law, including as required under section 31 of the *Human Rights Code*;
- (c) the disclosure is for the purpose of a proceeding or contemplated proceeding and the information relates to or is a matter in issue in the proceeding or contemplated proceeding and,
 - (i) the public sector organization is, or is expected to be, a party, or
 - (ii) a current or former employee, consultant or agent of the public sector organization is, or is expected to be, a witness;
- (d) the disclosure is for a research purpose in accordance with section 8; or
- (e) the disclosure is to the Information and Privacy Commissioner.

Exceptions to limit on disclosure

(15) Subsection (14) does not apply to personal information lawfully collected by a public sector organization for another purpose in addition to the purpose specified in subsection (2).

Other Acts

(16) Subsection (14) prevails over the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* but the authority to disclose under that subsection is subject to any limits on disclosure under any other law.

Rights of access and correction

(17) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

Disclosure for research

8 (1) This section applies with respect to the disclosure, under clause 7 (14) (d), for a research purpose, of personal information collected as required or authorized under a regulation made under clause 6 (5) (a) or (b).

Circumstances for disclosing personal information

(2) The public sector organization may disclose collected personal information to a researcher for a research purpose if the researcher,

- (a) submits to the public sector organization,
 - (i) an application in writing,
 - (ii) a research plan that meets the requirements of subsection (3), and
 - (iii) a copy of the decision of a research ethics board that approves the research plan; and
- (b) enters into an agreement with the public sector organization that complies with the requirements prescribed by regulation for the purposes of this clause.

Research plan

(3) A research plan must be in writing and must set out,

- (a) the affiliation of each person involved in the research;
- (b) the nature and objectives of the research and the public or scientific benefit of the research that the researcher anticipates; and
- (c) all other matters related to the research that are prescribed by regulation for the purposes of this clause.

Limit on approving research plan

(4) A research ethics board shall not approve a research plan if the research purpose for which the disclosure is to be made can be reasonably accomplished without the information being provided in individually identifiable form.

Consideration of research plan

(5) In determining whether or not to approve a research plan, a research ethics board shall consider the matters prescribed by regulation for the purposes of this subsection.

Conditions on approval

(6) A research ethics board may specify, in its approval of a research plan, conditions to which the approval is subject.

Requirements on researcher

(7) A researcher who receives personal information about an individual under clause 7 (14) (d),

- (a) shall comply with the conditions, if any, specified by the research ethics board under subsection (6);
- (b) shall not publish the information in a form that could reasonably enable a person to ascertain the identity of the individual;
- (c) shall comply with the agreement referred to in clause (2) (b); and
- (d) shall comply with the requirements prescribed by regulation for the purposes of this clause.

Regulations relating to research

(8) The Lieutenant Governor in Council may make regulations prescribing anything described as being prescribed by regulation in this section or in the definition of “research ethics board” in section 1.

Other collected personal information

9 (1) If a public sector organization is required or authorized to collect personal information under a regulation made under clause 6 (5) (a) or (b), the organization may use, for the purpose specified in subsection 7 (2), other personal information it has lawfully collected.

Limit on use

(2) The public sector organization shall use personal information as allowed under subsection (1) only in accordance with the applicable data standards.

Further limits on use

(3) The public sector organization shall not use personal information as allowed under subsection (1) if the use of other information will meet the purpose specified in subsection 7 (2) and shall not use more of such personal information than is reasonably necessary to meet that purpose.

Use deemed to comply with other Acts

(4) The use of personal information as allowed under subsection (1) is deemed to comply with section 41 of the *Freedom of Information and Protection of Privacy Act* and section 31 of the *Municipal Freedom of Information and Protection of Privacy Act*.

Notice

(5) Before using personal information as allowed under subsection (1), the public sector organization shall ensure that a notice is published on a website stating that the use is authorized under this Act and also stating,

- (a) the types of personal information that may be used under subsection (1) and the circumstances in which such personal information may be used in that way;
- (b) the purpose for which the personal information may be used under subsection (1); and
- (c) the title and contact information, including an email address, of an employee who can answer an individual’s questions about the use of the personal information under subsection (1).

Information and Privacy Commissioner’s review of practices

10 (1) The Information and Privacy Commissioner may, from time to time, review the practices of a public sector organization that has collected or used personal information as required or authorized under this Act to determine whether,

- (a) there has been an unauthorized collection, retention, use, disclosure, access to or modification of personal information in the custody or control of the public sector organization in connection with this Act; and
- (b) the requirements under this Act relating to personal information, including the requirements with respect to notice, de-identification, retention, security and secure disposal, have been met.

Duty to assist

(2) The public sector organization shall co-operate with and assist the Commissioner in the conduct of the review under subsection (1).

Powers of Commissioner

(3) The Commissioner may require the production of such information and records under the custody or control of the public sector organization as are relevant to the subject matter of the review.

Obligation to assist

(4) If the Commissioner requires production of information or a record under subsection (3), the person having custody or control of the information or record shall produce it to the Commissioner and, at the request of the Commissioner, shall provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form.

Orders

(5) If, after giving the public sector organization an opportunity to be heard, the Commissioner determines that a practice contravenes this Act or the regulations, including a requirement under the regulations made under clause 6 (5) (c) that a public sector organization comply with a part of the data standards, the Commissioner may order the organization to do any of the following:

1. Discontinue the practice.
2. Change the practice as specified by the Commissioner.
3. Destroy personal information collected or retained under the practice.
4. Implement a new practice as specified by the Commissioner.

Limit on certain orders

(6) The Commissioner may order, under paragraph 2 or 4 of subsection (5), no more than what is reasonably necessary to achieve compliance with this Act and the regulations.

Offence

(7) A person who wilfully fails to comply with an order made under paragraph 1 or 3 of subsection (5) is guilty of an offence and on conviction is liable to a fine not exceeding \$100,000.

Consent of Attorney General

(8) A prosecution for an offence under subsection (7) shall not be commenced without the consent of the Attorney General or his or her agent.

Protection of information

(9) In a prosecution for an offence under subsection (7) for wilfully failing to comply with an order, the court may take precautions to avoid the disclosure by the court or any person of any personal information to which the order relates, including, where appropriate, conducting hearings or parts of hearings in private or sealing all or part of the court files.

Information and Privacy Commissioner recommendations, etc.

11 The Information and Privacy Commissioner may make comments or recommendations on the privacy implications of any matter related to this Act, including any matter related to the data standards established under section 6 or any regulations made under this Act.

Information and Privacy Commissioner's annual report

12 The Information and Privacy Commissioner may include information relating to this Act in the Commissioner's annual report under section 58 of the *Freedom of Information and Protection of Privacy Act*.

Anti-racism impact assessment framework

13 (1) The Minister, with the approval of the Lieutenant Governor in Council, shall establish an anti-racism impact assessment framework to be used,

- (a) in assessing potential racial equity impacts and outcomes of policies and programs; and
- (b) in developing, reviewing and revising policies and programs to mitigate, remedy or prevent inequitable racial impacts and outcomes and to advance racial equity.

Required content

(2) The anti-racism impact assessment framework shall provide for,

- (a) information gathering and analysis to be used in the assessment described in clause (1) (a) and in the development, review and revision described in clause (1) (b);
- (b) stakeholder consultations to be used in the assessment described in clause (1) (a) and in the development, review and revision described in clause (1) (b); and
- (c) public notice and public reporting.

Amendments

(3) The Minister, with the approval of the Lieutenant Governor in Council, may amend the anti-racism impact assessment framework.

Regulations to require use

(4) The Lieutenant Governor in Council may make regulations requiring public sector organizations to use all or part of the anti-racism impact assessment framework in relation to specified policies and programs.

Publication

14 The Minister shall publish on a Government of Ontario website,

- (a) the anti-racism strategy, as amended, replaced or continued;
- (b) each progress report required under section 3;
- (c) the data standards established under section 6, as amended; and
- (d) the anti-racism impact assessment framework established under section 13, as amended.

Anti-Racism Directorate

15 (1) The Directorate known in English as the Anti-Racism Directorate and in French as Direction générale de l'action contre le racisme is continued.

Functions of Directorate

(2) The Directorate shall assist the Minister in carrying out the Minister's duties under this Act.

Employees

(3) Such employees as are necessary for the proper conduct of the Directorate's work may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

Amendment, definition of "public sector organization"

16 (1) Subsections (2) and (3) only apply if Bill 89 (*Supporting Children, Youth and Families Act, 2016*), introduced on December 8, 2016, receives Royal Assent.

(2) References in subsection (3) to provisions of Bill 89 are references to those provisions as they were numbered in the first reading version of the Bill.

(3) On the later of the day section 1 of this Act comes into force and the day section 327 of Schedule 1 to Bill 89 comes into force, clause (i) of the definition of "public sector organization" in section 1 of this Act is repealed and the following substituted:

- (i) a person described in clause (b), (c) or (d) of the definition of "service provider" in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*,

Commencement

17 This Act comes into force on the day it receives Royal Assent.

Short title

18 The short title of this Act is the *Anti-Racism Act, 2017*.

EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 114 and does not form part of the law.
Bill 114 has been enacted as Chapter 15 of the Statutes of Ontario, 2017.*

The Bill provides for various measures related to anti-racism.

Section 2 requires the Government of Ontario to maintain an anti-racism strategy that aims to eliminate systemic racism and advance racial equity. The strategy must include initiatives to eliminate systemic racism and advance racial equity, as well as targets and indicators to measure the strategy's effectiveness. Section 3 requires the Minister to prepare, at specified times, progress reports on the anti-racism strategy.

Section 4 requires the Government of Ontario, at least every five years, to review the anti-racism strategy. Under section 5, the Government may consult on the strategy in between reviews. As part of a review or consultation, the Minister must consult with members and representatives of communities that are most adversely impacted by racism, including Indigenous, Black and Jewish communities and communities that are adversely impacted by Islamophobia. Following a review, the Government of Ontario may amend, replace or continue the strategy, and following a consultation the Minister may make more limited amendments to the strategy.

Section 6 requires the Minister, with the approval of the Lieutenant Governor in Council, to establish data standards that provide for the collection, use and management of information, including personal information, to identify and monitor systemic racism and racial disparities. Before the standards are established or amended, the Minister must consult with the Information and Privacy Commissioner and the Chief Commissioner of the Ontario Human Rights Commission.

Under subsection 6 (5), the Lieutenant Governor in Council may make regulations requiring or authorizing public sector organizations to collect specified information, including personal information, in relation to specified programs, services and functions for the purpose of eliminating systemic racism and advancing racial equity. The regulations may provide that the data standards, or some part of them, apply to public sector organizations. The regulations won't apply to a public sector organization in relation to a program, service or function if the organization, in providing that program or service, or carrying out that function, is a health information custodian as defined in the *Personal Health Information Protection Act, 2004*. Subsection 6 (8) provides that no program, service or benefit shall be withheld because a person does not provide, or refuses to provide, information under the data standards or the regulations. Sections 7, 8 and 9 set out rules respecting the collection, use, de-identification, retention, security, accuracy and disclosure of personal information, with section 8 providing for particular rules related to the disclosure of personal information for a research purpose.

Under section 10, the Information and Privacy Commissioner may review the practices of a public sector organization that has collected or used personal information as required or authorized and may make certain orders if the Commissioner determines that a practice contravenes the Bill. Subsection 10 (7) makes it an offence to wilfully fail to comply with certain orders of the Commissioner. Under section 11, the Commissioner may make comments or recommendations on the privacy implications of any matter related to the Bill.

Section 13 requires the Minister, with the approval of the Lieutenant Governor in Council, to establish an anti-racism impact assessment framework to be used in assessing potential racial equity impacts and outcomes of policies and programs and in developing, reviewing and revising policies and programs to mitigate, remedy or prevent inequitable racial impacts and outcomes and to advance racial equity. The Lieutenant Governor in Council may make regulations requiring public sector organizations to use all or part of the anti-racism impact assessment framework.

Section 14 requires the Minister to publish the anti-racism strategy, progress reports, data standards and the anti-racism impact assessment framework. Section 15 provides for the Anti-Racism Directorate to assist the Minister in carrying out the Minister's duties under the Bill.

CHAPITRE 15

Loi prévoyant des mesures contre le racisme

Sanctionnée le 1^{er} juin 2017

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Préambule

Toute personne mérite d'être traitée avec équité, respect et dignité. Aussi le gouvernement de l'Ontario s'engage-t-il à éliminer le racisme systémique et à faire progresser l'équité raciale.

Le racisme systémique est une réalité qui persiste encore de nos jours en Ontario, empêchant ainsi nombre de personnes de participer pleinement à la vie sociale et leur refusant l'égalité des droits, des libertés, du respect et de la dignité.

Le racisme systémique est souvent causé par des politiques, des pratiques et des procédures qui paraissent neutres, mais qui ont pour effet de désavantager des groupes racialisés. Ce type de racisme peut se perpétuer si l'on néglige de repérer et de surveiller les disparités et inégalités raciales et de prendre des mesures correctives.

Le racisme systémique est vécu de différentes façons par les divers groupes racialisés. Ainsi, le racisme envers les Autochtones, le racisme envers les Noirs, l'antisémitisme et l'islamophobie reflètent des passés marqués par l'exclusion, le déplacement et la marginalisation systémiques.

L'élimination du racisme systémique et la progression de l'équité raciale appuient le développement social, économique et culturel de la société dans son ensemble. Quand la marginalisation de particuliers et de communautés cesse, tout le monde y gagne.

Pour ces motifs, Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte

Définitions

1 (1) Les définitions qui suivent s'appliquent à la présente loi.

«anonymiser» Relativement à des renseignements personnels concernant un particulier, s'entend du fait d'en retirer les renseignements qui permettent de l'identifier ou à l'égard desquels il est raisonnable de prévoir, dans les circonstances, qu'ils pourraient servir, seuls ou avec d'autres, à l'identifier. («de-identify»)

«commission d'éthique de la recherche» Commission créée afin d'approuver les plans de recherche visés à l'article 8 et qui répond aux exigences prescrites par règlement pour l'application de la présente définition. («research ethics board»)

«fonds publics» Fonds fournis par le gouvernement de l'Ontario ou un organisme public désigné dans les règlements pris en vertu de la *Loi de 2006 sur la fonction publique de l'Ontario*. Sont toutefois exclus de la présente définition :

- a) les fonds versés au titre de la fourniture de biens ou de services au gouvernement de l'Ontario ou à un organisme public;
- b) les fonds accordés par le gouvernement de l'Ontario ou un organisme public sous forme de prêt ou de garantie d'emprunt. («public funds»)

«ministre» Le ministre délégué à l'Action contre le racisme ou l'autre membre du Conseil exécutif qui est chargé de l'application de la présente loi en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

«normes applicables relatives aux données» En ce qui concerne une organisation du secteur public, la partie des normes relatives aux données qui s'appliquent à l'égard de l'organisation aux termes des règlements pris en vertu de l'alinéa 6 (5) c). («applicable data standards»)

«organisation du secteur public» S'entend de ce qui suit :

- a) un ministère du gouvernement de l'Ontario;
- b) un organisme public désigné dans les règlements pris en vertu de la *Loi de 2006 sur la fonction publique de l'Ontario*;
- c) une municipalité;
- d) un conseil local, au sens du paragraphe 1 (1) de la *Loi de 2001 sur les municipalités* ou du paragraphe 3 (1) de la *Loi de 2006 sur la cité de Toronto*;
- e) un conseil ou un conseil scolaire, au sens du paragraphe 1 (1) de la *Loi sur l'éducation*;
- f) une université qui reçoit des fonds de fonctionnement réguliers et permanents du gouvernement de l'Ontario aux fins de l'enseignement postsecondaire ou un collège d'arts appliqués et de technologie ouvert en vertu de la *Loi de 2002 sur les collèges d'arts appliqués et de technologie de l'Ontario*;
- g) un réseau local d'intégration des services de santé, au sens du paragraphe 2 (1) de la *Loi de 2006 sur l'intégration du système de santé local*;
- h) un fournisseur de services de santé, au sens de la *Loi de 2006 sur l'intégration du système de santé local* autre qu'une personne qui exploite un hôpital privé, au sens de la *Loi sur les hôpitaux privés*, sauf si elle a reçu des fonds publics pour l'exploitation de l'hôpital au cours de l'exercice précédent du gouvernement de l'Ontario;
- i) une personne visée à l'alinéa b), c) ou d) de la définition de «fournisseur de services» au paragraphe 3 (1) de la *Loi sur les services à l'enfance et à la famille*;
- j) un conseil d'administration de district des services sociaux créé en vertu de la *Loi sur les conseils d'administration de district des services sociaux*;
- k) une personne qui fait fonctionner un établissement correctionnel, au sens de la *Loi sur le ministère des Services correctionnels*;
- l) une organisation qui a reçu au moins 1 000 000 \$ en fonds publics au cours de l'exercice précédent du gouvernement de l'Ontario, à l'exclusion de l'une ou l'autre des entités suivantes :
 - (i) le Bureau du lieutenant-gouverneur,
 - (ii) le Bureau de l'Assemblée ou le bureau d'un fonctionnaire de l'Assemblée. («public sector organization»)

«renseignements personnels» S'entend au sens de la *Loi sur l'accès à l'information et la protection de la vie privée*. («personal information»)

Code des droits de la personne

(2) Aucune disposition de la présente loi ne doit être interprétée ou appliquée de manière à restreindre un droit prévu par le *Code des droits de la personne*.

Stratégie antiraciste

2 (1) Le gouvernement de l'Ontario maintient une stratégie antiraciste visant à éliminer le racisme systémique et à faire progresser l'équité raciale.

Contenu de la stratégie

(2) La stratégie comprend les éléments suivants :

1. Des initiatives visant à éliminer le racisme systémique, notamment des initiatives visant à repérer et à supprimer les obstacles systémiques qui contribuent aux répercussions raciales inévitables.
2. Des initiatives visant à faire progresser l'équité raciale.
3. Des objectifs et des indicateurs visant à mesurer l'efficacité de la stratégie.

Idem

(3) Les initiatives visées à la disposition 1 du paragraphe (2) comprennent des initiatives visant à aider les groupes racialisés qui sont le plus touchés défavorablement par le racisme systémique, notamment les communautés autochtones et noires.

Idem

(4) Les initiatives visées à la disposition 2 du paragraphe (2) comprennent des initiatives visant à parer aux incidences défavorables des différentes formes de racisme, notamment le racisme envers les Autochtones, le racisme envers les Noirs, l'antisémitisme et l'islamophobie.

Continuation de la stratégie

(5) Le document intitulé *Une meilleure façon d'avancer : Plan stratégique triennal de l'Ontario contre le racisme* publié le 7 mars 2017 est continué en tant que stratégie antiraciste aux termes du paragraphe (1).

Disposition transitoire — objectifs et indicateurs

(6) Le gouvernement de l'Ontario fixe et publie les premiers objectifs et indicateurs exigés à la disposition 3 du paragraphe (2) sur un site Web du gouvernement de l'Ontario dans les 12 mois suivant l'entrée en vigueur du présent article.

Idem

(7) Les objectifs et les indicateurs publiés conformément au paragraphe (6) sont réputés faire partie de la stratégie antiraciste.

Rapports d'étape sur la stratégie antiraciste

3 (1) Le ministre rédige des rapports d'étape sur la stratégie antiraciste qui comprennent des renseignements sur les initiatives, les objectifs et les indicateurs de la stratégie.

Date limite pour la rédaction des rapports

(2) Le premier rapport est rédigé dans les 12 mois suivant le jour de la publication des objectifs et des indicateurs conformément au paragraphe 2 (6). Les années subséquentes, les rapports sont rédigés au plus tard à la date anniversaire du jour où le premier rapport a été rédigé.

Examen de la stratégie antiraciste

4 (1) Au moins tous les cinq ans, le gouvernement de l'Ontario examine la stratégie antiraciste.

Consultation

(2) Dans le cadre de l'examen, le ministre :

- a) d'une part, informe le public que la stratégie est en cours d'examen et l'invite à exprimer ses opinions à son propos;
- b) d'autre part, consulte, de la manière qu'il estime appropriée, les organismes communautaires, les particuliers, les autres ordres de gouvernement et les intervenants qu'il estime appropriés.

Idem

(3) Le ministre veille à ce que des membres et des représentants des communautés qui sont le plus touchées défavorablement par le racisme, notamment les communautés autochtones, noires et juives et les communautés qui sont touchées défavorablement par l'islamophobie, soient consultés en application de l'alinéa (2) b).

Modification de la stratégie

(4) Une fois que l'examen est achevé, le gouvernement de l'Ontario prend l'une des mesures suivantes :

1. Il modifie la stratégie.
2. Il remplace la stratégie par une nouvelle.
3. Il maintient la stratégie déjà en place.

Idem

(5) Lorsqu'il détermine la mesure à prendre en application du paragraphe (4), le gouvernement de l'Ontario prend en considération la façon dont différents groupes racialisés sont touchés défavorablement par le racisme systémique, notamment le racisme envers les Autochtones, le racisme envers les Noirs, l'antisémitisme et l'islamophobie.

Idem

(6) Toute stratégie qui a été modifiée, remplacée ou maintenue en application du paragraphe (4) énonce la date à laquelle elle l'a été.

Consultations sur la stratégie antiraciste

5 (1) Le ministre peut, avant l'examen initial ou entre des examens successifs prévus à l'article 4, procéder à des consultations sur la stratégie antiraciste, de la manière et aux moments qu'il estime appropriés, auprès des organismes communautaires, particuliers, autres ordres de gouvernement et intervenants qu'il estime appropriés.

Idem

(2) Le ministre veille à ce que des membres et des représentants des communautés qui sont le plus touchées défavorablement par le racisme, notamment les communautés autochtones, noires et juives et les communautés qui sont touchées défavorablement par l'islamophobie, soient consultés en vertu du paragraphe (1).

Modification de la stratégie

(3) À l'issue des consultations, le ministre peut modifier la stratégie, sans toutefois modifier ses objectifs ou indicateurs.

Normes relatives aux données

6 (1) Le ministre fixe, avec l'approbation du lieutenant-gouverneur en conseil, des normes relatives aux données qui régissent la collecte, l'utilisation et la gestion de renseignements, notamment de renseignements personnels, afin de repérer et de surveiller les manifestations de racisme systémique et les disparités raciales en vue d'éliminer le racisme systémique et de faire progresser l'équité raciale.

Contenu obligatoire

(2) Les normes relatives aux données prévoient ce qui suit :

- a) la collecte de renseignements, notamment de renseignements personnels, et les circonstances éventuelles dans lesquelles des renseignements personnels peuvent être recueillis d'une manière autre que directement du particulier concerné par ces renseignements;
- b) l'utilisation, y compris l'analyse, de renseignements, notamment de renseignements personnels;
- c) l'anonymisation de renseignements personnels et la divulgation de renseignements anonymisés;
- d) l'établissement de rapports sur l'utilisation, y compris l'analyse, de renseignements, notamment de renseignements personnels;
- e) la conservation, la sécurisation et l'élimination en toute sûreté des renseignements personnels recueillis.

Modifications

(3) Le ministre peut, avec l'approbation du lieutenant-gouverneur en conseil, modifier les normes relatives aux données.

Consultation

(4) Le ministre consulte le commissaire à l'information et à la protection de la vie privée et le commissaire en chef de la Commission ontarienne des droits de la personne avant de fixer ou de modifier les normes relatives aux données.

Règlements

(5) Le lieutenant-gouverneur en conseil peut, par règlement :

- a) exiger que des organisations du secteur public recueillent des renseignements précisés, y compris des renseignements personnels, relativement à des programmes, services et fonctions précisés;
- b) autoriser des organisations du secteur public à recueillir des renseignements personnels précisés relativement à des programmes, services et fonctions précisés;
- c) prévoir que la totalité ou une partie des normes relatives aux données s'appliquent à l'égard des renseignements personnels qu'un règlement pris en vertu de l'alinéa a) ou b) oblige ou autorise une organisation du secteur public à recueillir, y compris exiger que l'organisation du secteur public se conforme à la totalité ou à une partie de ces normes.

Restriction

(6) À moins d'être mentionnés dans les normes relatives aux données, des renseignements personnels ne peuvent être précisés par un règlement pris en vertu de l'alinéa (5) a) ou b).

Exclusion : dépositaires de renseignements sur la santé

(7) Tout règlement pris en vertu de l'alinéa (5) a) ou b) ne s'applique pas à une organisation du secteur public relativement à un programme, à un service ou à une fonction si l'organisation, en fournissant ce programme ou ce service ou en exerçant

cette fonction, est un depositaire de renseignements sur la santé, au sens de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*.

Interdiction de refuser des services en cas de renseignements non fournis

(8) Il ne peut être refusé de fournir un programme, un service ou des prestations parce qu'une personne ne fournit pas ou refuse de fournir des renseignements visés par les normes relatives aux données ou par les règlements pris en vertu du paragraphe (5).

Pouvoir s'ajoutant aux autres pouvoirs

(9) Le pouvoir de recueillir des renseignements personnels que confère un règlement pris en vertu de l'alinéa (5) b) s'ajoute, sans lui porter atteinte, à tout autre pouvoir que peut détenir une organisation du secteur public d'en recueillir à la fin précisée au paragraphe 7 (2).

Renseignements personnels recueillis en application des règlements

7 (1) Le présent article s'applique à l'égard de la collecte de renseignements personnels comme l'exige ou l'autorise un règlement pris en vertu de l'alinéa 6 (5) a) ou b).

Fin de la collecte

(2) La collecte de renseignements personnels sous le régime de la présente loi a pour fin d'éliminer le racisme systémique et de faire progresser l'équité raciale.

Manière de recueillir les renseignements personnels

(3) Les renseignements personnels doivent être recueillis directement du particulier concerné par ces renseignements, sauf si une autre manière de recueillir les renseignements est autorisée par les normes applicables relatives aux données.

Avis au particulier : collecte directe

(4) Si les renseignements personnels sont recueillis directement du particulier concerné par ces renseignements, l'organisation du secteur public informe le particulier que la collecte en est autorisée en vertu de la présente loi et l'informe également de ce qui suit :

- a) la fin à laquelle doivent servir les renseignements personnels;
- b) le fait que, en application du paragraphe 6 (8), il ne peut être refusé de fournir un programme, un service ou des prestations parce que le particulier ne fournit pas ou refuse de fournir les renseignements personnels;
- c) le titre et les coordonnées, notamment l'adresse électronique, d'un employé qui peut renseigner tout particulier au sujet de la collecte.

Avis : collecte indirecte

(5) Si des renseignements personnels sont recueillis autrement que directement auprès du particulier concerné par ces renseignements, l'organisation du secteur public, avant de recueillir les renseignements de cette manière, veille à faire publier un avis sur un site Web indiquant que la collecte est autorisée ou exigée en vertu de la présente loi et énonçant ce qui suit :

- a) les types de renseignements personnels qui peuvent être recueillis de cette manière et les circonstances dans lesquelles ces renseignements peuvent être recueillis de cette manière;
- b) la fin à laquelle doivent servir les renseignements personnels recueillis de cette manière;
- c) le titre et les coordonnées, notamment l'adresse électronique, d'un employé qui peut renseigner tout particulier au sujet de la collecte.

Restriction en matière d'utilisation

(6) L'organisation du secteur public ne doit pas utiliser les renseignements personnels recueillis à une fin autre que celle précisée au paragraphe (2).

Exception applicable à la restriction en matière d'utilisation

(7) Le paragraphe (6) ne s'applique pas aux renseignements personnels recueillis légitimement par une organisation du secteur public à une autre fin, outre celle précisée au paragraphe (2).

Restrictions dans le cas d'une collecte autorisée en vertu de l'al. 6 (5) b)

(8) Une organisation du secteur public ne doit pas utiliser des renseignements personnels recueillis dans le cadre d'une collecte autorisée par un règlement pris en vertu de l'alinéa 6 (5) b) si l'utilisation d'autres renseignements réaliserait la fin précisée au paragraphe (2), ni utiliser plus de renseignements personnels qu'il n'est raisonnablement nécessaire pour réaliser cette fin.

Anonymisation

(9) L'organisation du secteur public anonymise les renseignements personnels recueillis comme l'exigent les normes applicables relatives aux données.

Conservation

(10) L'organisation du secteur public conserve les renseignements personnels recueillis pendant la période précisée dans les normes applicables relatives aux données ou, si aucune période n'est précisée, pendant au moins un an après le jour où ils ont été utilisés pour la dernière fois par l'organisation.

Sécurisation

(11) L'organisation du secteur public prend des mesures raisonnables pour sécuriser les renseignements personnels recueillis.

Exactitude

(12) Avant de les utiliser à la fin précisée au paragraphe (2), l'organisation du secteur public prend des mesures raisonnables pour veiller à ce que les renseignements personnels recueillis soient aussi exacts que cela est nécessaire à cette fin.

Restrictions en matière d'accès

(13) L'organisation du secteur public restreint l'accès aux renseignements personnels recueillis aux cadres ou dirigeants, aux employés, aux experts-conseils et aux mandataires de l'organisation qui ont besoin d'accéder aux renseignements dans l'exercice de leurs fonctions relativement à quoi que ce soit que l'organisation doit ou peut faire dans le cadre de la présente loi, des règlements ou des normes applicables relatives aux données.

Restriction en matière de divulgation

(14) L'organisation du secteur public ne peut divulguer les renseignements personnels recueillis que si l'une des conditions suivantes est remplie :

- a) la personne concernée par ces renseignements les a identifiés spécifiquement et a consenti à leur divulgation;
- b) la divulgation est exigée par la loi, y compris comme l'exige l'article 31 du *Code des droits de la personne*;
- c) la divulgation est faite aux fins d'une instance poursuivie ou éventuelle, les renseignements concernent ou constituent une question en litige dans l'instance poursuivie ou éventuelle, et :
 - (i) soit l'organisation du secteur public est partie ou s'attend à l'être,
 - (ii) soit un employé, un expert-conseil ou un mandataire, actuel ou ancien, de l'organisation du secteur public est témoin, ou s'attend à l'être;
- d) la divulgation a pour fin la recherche conformément à l'article 8;
- e) la divulgation est faite au commissaire à l'information et à la protection de la vie privée.

Exceptions applicables à la restriction en matière de divulgation

(15) Le paragraphe (14) ne s'applique pas aux renseignements personnels recueillis légitimement par une organisation du secteur public à une autre fin, outre celle précisée au paragraphe (2).

Autres lois

(16) Le paragraphe (14) l'emporte sur la *Loi sur l'accès à l'information et la protection de la vie privée* et la *Loi sur l'accès à l'information municipale et la protection de la vie privée*. Toutefois, le pouvoir de divulgation visé à ce paragraphe est assujéti aux restrictions en matière de divulgation prévues par toute autre loi.

Droit d'accès et droit à la rectification

(17) Le présent article n'a pas pour effet de limiter le droit conféré par une loi à un particulier d'accéder aux renseignements personnels qui le concernent et d'en demander la rectification.

Divulgation à une fin de recherche

8 (1) Le présent article s'applique à l'égard de la divulgation, faite en vertu de l'alinéa 7 (14) d), à une fin de recherche, de renseignements personnels recueillis comme l'exige ou l'autorise un règlement pris en vertu de l'alinéa 6 (5) a) ou b).

Circonstances : divulgation de renseignements personnels

(2) L'organisation du secteur public peut divulguer des renseignements personnels recueillis à une fin de recherche à un chercheur qui :

- a) d'une part, présente ce qui suit à l'organisation du secteur public :
 - (i) une demande écrite,

- (ii) un plan de recherche qui satisfait aux exigences du paragraphe (3),
 - (iii) une copie de la décision d'une commission d'éthique de la recherche d'approuver le plan de recherche;
- b) d'autre part, conclut avec l'organisation du secteur public un accord qui est conforme aux exigences prescrites par règlement pour l'application du présent alinéa.

Plan de recherche

(3) Le plan de recherche est fait par écrit et énonce ce qui suit :

- a) l'affiliation de chaque personne qui participe à la recherche;
- b) la nature et les objets de la recherche, et les avantages que prévoit le chercheur pour le public ou la science;
- c) les autres questions liées à la recherche qui sont prescrites par règlement pour l'application du présent alinéa.

Restriction concernant l'approbation d'un plan de recherche

(4) Une commission d'éthique de la recherche ne doit pas approuver un plan de recherche si la fin de recherche à l'origine de la divulgation peut être raisonnablement atteinte sans divulguer les renseignements sous une forme qui permet l'identification individuelle.

Facteurs pris en compte pour l'approbation d'un plan de recherche

(5) Pour décider si elle doit approuver ou non un plan de recherche, une commission d'éthique de la recherche tient compte des questions prescrites par règlement pour l'application du présent paragraphe.

Approbation assortie de conditions

(6) Une commission d'éthique de la recherche peut préciser, dans son approbation d'un plan de recherche, les conditions dont l'approbation est assortie.

Exigences imposées au chercheur

(7) Les règles suivantes s'appliquent au chercheur qui, en application de l'alinéa 7 (14) d), reçoit des renseignements personnels concernant un particulier :

- a) il se conforme aux conditions que précise, le cas échéant, la commission d'éthique de la recherche en vertu du paragraphe (6);
- b) il ne doit pas publier les renseignements sous une forme qui pourrait raisonnablement permettre à quiconque d'établir l'identité du particulier;
- c) il se conforme à l'accord visé à l'alinéa (2) b);
- d) il se conforme aux exigences prescrites par règlement pour l'application du présent alinéa.

Règlements relatifs à une recherche

(8) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire tout ce qui est mentionné comme étant prescrit par règlement au présent article ou dans la définition de «commission d'éthique de la recherche» à l'article 1.

Autres renseignements personnels recueillis

9 (1) Si un règlement pris en vertu de l'alinéa 6 (5) a) ou b) oblige ou autorise une organisation du secteur public à recueillir des renseignements personnels, celle-ci peut utiliser, à la fin précisée au paragraphe 7 (2), d'autres renseignements personnels qu'elle a recueillis légitimement.

Restriction en matière d'utilisation

(2) L'organisation du secteur public ne doit utiliser les renseignements personnels comme le permet le paragraphe (1) que conformément aux normes applicables relatives aux données.

Restrictions supplémentaires en matière d'utilisation

(3) L'organisation du secteur public ne doit pas utiliser des renseignements personnels comme le permet le paragraphe (1) si l'utilisation d'autres renseignements réalisera la fin précisée au paragraphe 7 (2), ni utiliser plus de renseignements personnels qu'il n'est raisonnablement nécessaire pour réaliser cette fin.

Utilisation réputée conforme aux autres lois

(4) L'utilisation de renseignements personnels comme le permet le paragraphe (1) est réputée conforme à l'article 41 de la *Loi sur l'accès à l'information et la protection de la vie privée* et à l'article 31 de la *Loi sur l'accès à l'information municipale et la protection de la vie privée*.

Avis

(5) Avant d'utiliser des renseignements personnels comme le permet le paragraphe (1), l'organisation du secteur public doit veiller à faire publier un avis sur un site Web indiquant que l'utilisation est autorisée en vertu de la présente loi et énonçant ce qui suit :

- a) les types de renseignements personnels qui peuvent être utilisés en vertu du paragraphe (1) et les circonstances dans lesquelles ces renseignements peuvent être utilisés de cette manière;
- b) la fin à laquelle peuvent servir les renseignements personnels en vertu du paragraphe (1);
- c) le titre et les coordonnées, notamment l'adresse électronique, d'un employé qui peut renseigner tout particulier au sujet de l'utilisation des renseignements personnels en vertu du paragraphe (1).

Examen des pratiques du commissaire à l'information et à la protection de la vie privée

10 (1) Le commissaire à l'information et à la protection de la vie privée peut examiner les pratiques d'une organisation du secteur public qui a recueilli ou utilisé des renseignements personnels comme l'exige ou l'autorise la présente loi, afin d'établir :

- a) d'une part, si les renseignements personnels dont l'organisation du secteur public a la garde ou le contrôle dans le cadre de la présente loi ont été recueillis, conservés, utilisés, divulgués ou modifiés sans autorisation, ou si on y a accédé sans autorisation;
- b) d'autre part, s'il a été satisfait aux exigences, que prévoit la présente loi, relatives aux renseignements personnels, y compris à celles concernant l'avis à leur sujet et leur anonymisation, conservation, sécurisation et élimination en toute sûreté.

Obligation d'aider

(2) L'organisation du secteur public collabore avec le commissaire et l'aide à effectuer l'examen visé au paragraphe (1).

Pouvoirs du commissaire

(3) Le commissaire peut exiger la production de renseignements et de dossiers dont l'organisation du secteur public a la garde ou le contrôle s'ils se rapportent à l'objet de l'examen.

Aide obligatoire

(4) Si le commissaire exige la production de renseignements ou d'un dossier en vertu du paragraphe (3), quiconque en a la garde ou le contrôle les produit et lui fournit sur demande l'aide qui est raisonnablement nécessaire pour les produire sous une forme lisible, en recourant notamment à un dispositif ou système de stockage, de traitement ou de récupération des données.

Ordonnances

(5) Si, après avoir donné à l'organisation du secteur public l'occasion d'être entendue, le commissaire établit qu'une pratique contrevient à la présente loi ou aux règlements, y compris à une exigence des règlements pris en vertu de l'alinéa 6 (5) c) selon laquelle l'organisation du secteur public doit se conformer à une partie des normes relatives aux données, le commissaire peut ordonner à l'organisation de prendre l'une ou l'autre des mesures suivantes :

1. Cesser la pratique.
2. Modifier la pratique, selon les précisions du commissaire.
3. Détruire les renseignements personnels recueillis ou conservés dans le cadre de la pratique.
4. Mettre en oeuvre une nouvelle pratique, selon les précisions du commissaire.

Restriction applicable à certaines ordonnances

(6) Le commissaire ne peut ordonner à une organisation du secteur public, en vertu de la disposition 2 ou 4 du paragraphe (5), de prendre des mesures allant au-delà de ce qui est raisonnablement nécessaire pour se conformer à la présente loi et aux règlements.

Infraction

(7) Quiconque s'abstient volontairement de se conformer à une ordonnance rendue en vertu de la disposition 1 ou 3 du paragraphe (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende maximale de 100 000 \$.

Consentement du procureur général

(8) Aucune poursuite relative à une infraction prévue au paragraphe (7) ne doit être intentée sans le consentement du procureur général ou de son mandataire.

Protection des renseignements

(9) Dans le cadre d'une poursuite intentée relativement à une infraction prévue au paragraphe (7) pour s'être abstenu volontairement de se conformer à une ordonnance, le tribunal peut prendre des précautions pour éviter que lui-même ou toute autre personne ne divulgue des renseignements personnels auxquels l'ordonnance se rapporte, notamment, lorsque cela est approprié, tenir des audiences en tout ou en partie à huis clos ou apposer un sceau sur la totalité ou une partie des dossiers du greffe.

Recommandations du commissaire à l'information et à la protection de la vie privée

11 Le commissaire à l'information et à la protection de la vie privée peut présenter des commentaires ou des recommandations sur l'incidence qu'ont sur la vie privée les questions liées à la présente loi, y compris les questions liées aux normes relatives aux données fixées en application de l'article 6 ou aux règlements pris en vertu de la présente loi.

Rapport annuel du commissaire à l'information et à la protection de la vie privée

12 Dans son rapport annuel visé à l'article 58 de la *Loi sur l'accès à l'information et la protection de la vie privée*, le commissaire à l'information et à la protection de la vie privée peut inclure des renseignements se rapportant à la présente loi.

Cadre d'évaluation de l'impact de l'action contre le racisme

13 (1) Le ministre établit, avec l'approbation du lieutenant-gouverneur en conseil, un cadre d'évaluation de l'impact de l'action contre le racisme à utiliser aux fins suivantes :

- a) évaluer les éventuelles incidences et répercussions en matière d'équité raciale des politiques et des programmes;
- b) élaborer des politiques et des programmes et les examiner et réviser pour atténuer ou éviter les incidences et répercussions inévitables du point de vue racial, ou y remédier, et faire progresser l'équité raciale.

Contenu obligatoire

(2) Le cadre d'évaluation de l'impact de l'action contre le racisme prévoit ce qui suit :

- a) la cueillette et l'analyse de renseignements devant servir à l'évaluation visée à l'alinéa (1) a) et à l'élaboration, à l'examen et à la révision visés à l'alinéa (1) b);
- b) des consultations avec des intervenants devant servir à l'évaluation visée à l'alinéa (1) a) et à l'élaboration, à l'examen et à la révision visés à l'alinéa (1) b);
- c) la publication d'avis et de rapports.

Modifications

(3) Le ministre peut modifier, avec l'approbation du lieutenant-gouverneur en conseil, le cadre d'évaluation de l'impact de l'action contre le racisme.

Règlements exigeant l'utilisation du cadre

(4) Le lieutenant-gouverneur en conseil peut, par règlement, exiger que des organisations du secteur public utilisent tout ou partie du cadre d'évaluation de l'impact de l'action contre le racisme relativement à des politiques et programmes précisés.

Publication

14 Le ministre publie les documents suivants sur un site Web du gouvernement de l'Ontario :

- a) la stratégie antiraciste, telle qu'elle est modifiée, remplacée ou maintenue;
- b) chaque rapport d'étape exigé aux termes de l'article 3;
- c) les normes relatives aux données fixées en application de l'article 6, avec leurs modifications;
- d) le cadre d'évaluation de l'impact de l'action contre le racisme établi en application de l'article 13, avec ses modifications.

Direction générale de l'action contre le racisme

15 (1) Est prorogée la Direction générale appelée Direction générale de l'action contre le racisme en français et Anti-Racism Directorate en anglais.

Fonctions de la Direction générale

(2) La Direction générale aide le ministre à exercer les fonctions que lui attribue la présente loi.

Employés

16 Les employés jugés nécessaires au bon fonctionnement de la Direction générale peuvent être nommés aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario*.

Modification : définition de «organisation du secteur public»

16 (1) Les paragraphes (2) et (3) ne s'appliquent que si le projet de loi 89 (*Loi de 2016 sur le soutien à l'enfance, à la jeunesse et à la famille*), déposé le 8 décembre 2016, reçoit la sanction royale.

(2) Les mentions, au paragraphe (3), de dispositions du projet de loi 89 valent mention de ces dispositions selon leur numérotation dans le texte de première lecture du projet de loi.

(3) Le dernier en date du jour de l'entrée en vigueur de l'article 1 de la présente loi et du jour de l'entrée en vigueur de l'article 327 de l'annexe 1 du projet de loi 89, l'alinéa i) de la définition de «organisation du secteur public» à l'article 1 de la présente loi est abrogé et remplacé par ce qui suit :

- i) d'une personne visée à l'alinéa b), c) ou d) de la définition de «fournisseur de services» au paragraphe 2 (1) de la *Loi de 2017 sur les services à l'enfance, à la jeunesse et à la famille*;

Entrée en vigueur

17 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Titre abrégé

18 Le titre abrégé de la présente loi est *Loi de 2017 contre le racisme*.

NOTE EXPLICATIVE

*La note explicative, rédigée à titre de service aux lecteurs du projet de loi 114, ne fait pas partie de la loi.
Le projet de loi 114 a été édicté et constitue maintenant le chapitre 15 des Lois de l'Ontario de 2017.*

Le projet de loi prévoit diverses mesures de lutte contre le racisme.

L'article 2 exige que le gouvernement de l'Ontario maintienne une stratégie antiraciste visant à éliminer le racisme systémique et à faire progresser l'équité raciale. Cette stratégie doit comprendre des initiatives visant à éliminer le racisme systémique et à faire progresser l'équité raciale, ainsi que des objectifs et des indicateurs visant à en mesurer l'efficacité. L'article 3 exige que le ministre rédige des rapports d'étape sur la stratégie antiraciste aux moments précisés.

L'article 4 exige que le gouvernement de l'Ontario examine la stratégie antiraciste au moins tous les cinq ans. En vertu de l'article 5, le gouvernement peut procéder à des consultations sur la stratégie antiraciste entre des examens. Dans le cadre d'un examen ou d'une consultation, le ministre doit consulter des membres et des représentants des communautés qui sont le plus touchées défavorablement par le racisme, notamment les communautés autochtones, noires et juives et les communautés qui sont touchées défavorablement par l'islamophobie. À la suite d'un examen, le gouvernement de l'Ontario peut modifier, remplacer ou maintenir la stratégie. À la suite d'une consultation, le ministre peut apporter des modifications plus limitées à la stratégie.

L'article 6 exige que le ministre fixe, avec l'approbation du lieutenant-gouverneur en conseil, des normes relatives aux données qui régissent la collecte, l'utilisation et la gestion de renseignements, notamment de renseignements personnels, afin de repérer et de surveiller les manifestations de racisme systémique et les disparités raciales. Avant de fixer ou de modifier les normes, le ministre doit consulter le commissaire à l'information et à la protection de la vie privée et le commissaire en chef de la Commission ontarienne des droits de la personne.

En vertu du paragraphe 6 (5), le lieutenant-gouverneur en conseil peut, par règlement, obliger ou autoriser des organisations du secteur public à recueillir des renseignements précisés, y compris des renseignements personnels, relativement à des programmes, services et fonctions précisés en vue d'éliminer le racisme systémique et de faire progresser l'équité raciale. Les règlements peuvent prévoir que les normes relatives aux données, ou une partie de celles-ci, s'appliquent aux organisations du secteur public. Toutefois, les règlements ne s'appliqueront pas à une organisation du secteur public relativement à un programme, à un service ou à une fonction si l'organisation, en fournissant ce programme ou ce service ou en exerçant cette fonction, est un dépositaire de renseignements sur la santé, au sens de la *Loi de 2004 sur la protection des renseignements personnels sur la santé*. Le paragraphe 6 (8) prévoit qu'il ne peut être refusé de fournir un programme, un service ou des prestations parce qu'une personne ne fournit pas ou refuse de fournir des renseignements visés par les normes relatives aux données ou par les règlements. Les articles 7, 8 et 9 énoncent les règles concernant la collecte, l'utilisation, l'anonymisation, la conservation, la sécurisation, l'exactitude et la divulgation de renseignements personnels. L'article 8 prévoit par ailleurs des règles particulières concernant la divulgation de renseignements personnels à une fin de recherche.

En vertu de l'article 10, le commissaire à l'information et à la protection de la vie privée peut examiner les pratiques d'une organisation du secteur public qui a recueilli ou utilisé des renseignements personnels comme il est exigé ou autorisé, et peut rendre certaines ordonnances s'il établit qu'une pratique contrevient au projet de loi. Le paragraphe 10 (7) érige en infraction le fait de s'abstenir volontairement de se conformer à certaines ordonnances rendues par le commissaire. En vertu de l'article 11, le commissaire peut présenter des commentaires ou des recommandations sur l'incidence qu'ont sur la vie privée les questions liées au projet de loi.

L'article 13 exige que le ministre établisse, avec l'approbation du lieutenant-gouverneur en conseil, un cadre d'évaluation de l'impact de l'action contre le racisme à utiliser pour évaluer les éventuelles incidences et répercussions en matière d'équité raciale des politiques et des programmes et pour élaborer des politiques et des programmes et les examiner et réviser afin d'atténuer ou d'éviter les incidences et répercussions inévitables du point de vue racial, ou y remédier, et faire progresser l'équité raciale. Le lieutenant-gouverneur en conseil peut, par règlement, exiger que des organisations du secteur public utilisent tout ou partie du cadre d'évaluation de l'impact de l'action contre le racisme.

L'article 14 exige que le ministre publie la stratégie antiraciste, les rapports d'étape, les normes relatives aux données et le cadre d'évaluation de l'impact de l'action contre le racisme. L'article 15 prévoit que la Direction générale de l'action contre le racisme aide le ministre à exercer les fonctions que lui attribue le projet de loi.

CHAPTER 16

An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998

Assented to June 1, 2017

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Fair Hydro Act, 2017*.

SCHEDULE 1
ONTARIO FAIR HYDRO PLAN ACT, 2017

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Preamble

The Government of Ontario is committed to fostering the development of a clean, modern and reliable electricity system with a diverse supply mix. The Government is also committed to removing barriers to and promoting opportunities for renewable and clean energy projects. These commitments can only be achieved if costs are shared fairly among consumers, today and in the future.

Electricity rates have risen for two key reasons. First, decades of under-investment in the electricity system resulted in the need to invest more than \$50 billion in generation, transmission and distribution assets to ensure the system is clean and reliable. Second, the decision to eliminate Ontario's use of coal and produce clean, renewable power has created additional costs.

The actions taken to achieve a clean, modern and reliable electricity system have resulted in significant costs to residential consumers. The burden of financing these system improvements and funding key programs has unfairly fallen almost entirely on the shoulders of those consumers.

The Government of Ontario is committed to ensuring that the costs of financing these investments and the associated charges to consumers are allocated fairly among present and future generations.

Recognizing that the electricity infrastructure that has been built and the policy decisions that have been made will create benefits for years to come, costs should be allocated fairly over time, so that residential consumers in the future pay their fair share for the benefits that they receive from the investments already made.

PART I GENERAL

Interpretation

Definitions

1 (1) In this Act,

“Board” means the Ontario Energy Board; (“Commission”)

“clean energy adjustment” means the amount determined under section 15 and payable by specified consumers; (“ajustement pour l'énergie propre”)

“clean energy benefits” means the value of the benefits determined to be derived by or accruing to specified consumers as a result of the clean energy initiative, including as a result of clean energy costs; (“avantages de l'énergie propre”)

“clean energy costs” means the value of the costs allocated to specified consumers as a result of the clean energy initiative, including as a result of past, present and expected costs incurred in respect of,

(a) the amounts to be paid or reflected by the IESO in adjustments made under section 25.33 of the *Electricity Act, 1998* or any provision that is the successor to that provision, which relate to contracts or amounts for,

(i) renewable energy generation or capacity,

(ii) conservation and demand management,

(iii) energy storage,

(iv) energy efficiency,

(v) natural gas generation and capacity, excluding contracts relating to amounts payable by the IESO under section 78.2 of the *Ontario Energy Board Act, 1998* and excluding such other contracts as may be prescribed,

(b) payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*, and

(c) such other costs or estimated costs as may be prescribed; (“coûts de l'énergie propre”)

“clean energy initiative” means the policies of the Government of Ontario related to,

- (a) eliminating coal generation and fostering the growth of and investment in clean, modern and reliable energy sources and technologies,
- (b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies,
- (c) promoting conservation, demand management and energy efficiency, and
- (d) investing in energy infrastructure to ensure a clean, modern and reliable system: (“initiative pour l’énergie propre”)

“electricity vendor” means,

- (a) a licensed distributor,
- (b) a licensed retailer,
- (c) the IESO in circumstances where it directly invoices a specified consumer for electricity used in Ontario, or
- (d) such other person as may be prescribed; (“vendeur d’électricité”)

“fair allocation amount” means an amount calculated under section 20; (“montant de répartition équitable”)

“finance amount” means the finance amount determined in accordance with the regulations; (“montant de financement”)

“Financial Services Manager” means the Financial Services Manager appointed under section 18: (“gestionnaire des services financiers”)

“financing entity” means an entity established or caused to be established by the Financial Services Manager as described in subsection 22 (2); (“entité de financement”)

“Financing Plan” means the plan prepared under section 21; (“Plan de financement”)

“funding obligation” means a payment obligation incurred by or on behalf of an investment interest owner to fund its ownership of an investment interest or a payment obligation that meets such other criteria as may be prescribed; (“obligation de financement”)

“funding rebate” means a payment obligation incurred by the IESO as part of the transfer of the regulatory asset; (“remboursement de financement”)

“IESO” means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; (“SIERE”)

“IESO deferral” means the amount determined under section 23; (“report de la SIERE”)

“investment asset” means the rights and interests described in section 29; (“actif d’investissement”)

“investment interest” means,

- (a) an ownership interest in the investment asset, and
- (b) in circumstances where the ownership interest is transferred, the rights and benefits specified in the agreement under which the interest is transferred; (“participation d’investissement”)

“investment interest owner” means a financing entity that has acquired and holds an investment interest; (“détenteur d’une participation d’investissement”)

“licensed distributor” means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system within the meaning of that Act; (“distributeur titulaire d’un permis”)

“licensed retailer” means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; (“détaillant titulaire d’un permis”)

“Minister” means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“Ontario Power Generation Inc.” means the corporation incorporated as Ontario Power Generation Inc. under the *Business Corporations Act* on December 1, 1998; (“Ontario Power Generation Inc.”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“reference period” means,

- (a) the period beginning on July 1, 2017 and ending on October 31, 2017, and
- (b) during the period beginning on November 1, 2017 and ending on either April 30, 2047 or such later day as may be prescribed,
 - (i) every six-month period following the period mentioned in clause (a), or
 - (ii) any period shorter than six months, as may be prescribed; (“période de référence”)

“refinancing” means, subject to the regulations, the incurrence of debt in connection with a redemption, repayment or repurchase of a funding obligation; (“refinancement”)

“regulation” means a regulation made under this Act; (“règlement”)

“regulatory asset” means the right established under section 25; (“actif réglementaire”)

“specified consumer” means,

(a) a person who has an account with an electricity vendor for the supply of electricity in Ontario and meets the criteria set out in subsection (2), or

(b) such other person as may be prescribed; (“consommateur déterminé”)

“transfer” includes, when used in relation to an investment interest, the assignment, conveyance, disposition or sale of the investment interest; (“transfert”)

“true up amount” means a true up amount determined in accordance with the regulations; (“montant d’égilisation”)

“unit sub-metering” has the same meaning as in the *Energy Consumer Protection Act, 2010*; (“activités liées aux compteurs divisionnaires d’unité”)

“unit sub-meter provider” has the same meaning as in the *Energy Consumer Protection Act, 2010*; (“fournisseur de compteurs divisionnaires d’unité”)

“variance account” means the variance account established by the IESO under subsection 24 (1). (“compte d’écart”)

Specified consumer

(2) For the purposes of clause (a) of the definition of “specified consumer” in subsection (1), the person must meet any one of the following criteria:

1. The person has a demand for electricity of not more than 50 kilowatts, or such other amount as may be prescribed.
2. The person annually uses not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed.
3. The person carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993* and either holds a valid registration number assigned under that Act or has had the obligation to file a farming business registration form waived pursuant to an order made under subsection 22 (6) of that Act.
4. The person’s account with the electricity vendor relates to,
 - i. a dwelling,
 - ii. a property within the meaning of the *Condominium Act, 1998*,
 - iii. a residential complex within the meaning of subsection 2 (1) of the *Residential Tenancies Act, 2006*, without regard to section 5 of that Act, or
 - iv. a property that includes one or more housing units and that is owned or leased by a co-operative within the meaning of the *Co-operative Corporations Act*.
5. The person satisfies such criteria as may be prescribed.

Transfer of regulatory asset

(3) In this Act, a reference to the transfer of a specified portion of the regulatory asset is a reference to the following, as provided for in subsection 26 (3):

1. A reduction in the balance in the variance account.
2. The adjustment of the regulatory asset.
3. The acquisition by a financing entity of the investment interest corresponding to the specified portion of the regulatory asset.

Effect of invalidity

2 (1) For greater certainty, all of the provisions of this Act remain in full force and effect, even if one or more provisions are held to be invalid; the intention of the Legislature being to give separate and independent effect to the extent of its powers to every provision contained in this Act.

Same, funding obligation

(2) The fact that any provision of this Act is held to be invalid or ceases to be in effect for any reason does not affect the validity or enforceability of a funding obligation incurred before the day that the provision is held to be invalid or ceases to be in effect, or any rights or obligations associated with the funding obligation.

Purposes

3 The purposes of this Act are,

- (a) to ensure that clean energy costs and clean energy benefits are fairly allocated among present and future specified consumers;
- (b) to recognize that clean energy benefits have accrued and will accrue over time and will continue to benefit present and future electricity consumers in the Province; and
- (c) to align clean energy costs with clean energy benefits, in order to provide fairness for specified consumers over time.

Crown bound

4 This Act binds the Crown.

Protection and assurances**Prohibition**

5 (1) No action or omission by the Board, the Minister or the Crown shall be effective to reduce, impair, postpone or terminate the obligations of specified consumers to pay amounts in respect of the clean energy adjustment or to impair or postpone the invoicing, collection or remittance of the clean energy adjustment.

Agreements

(2) The Minister and the Minister of Finance may together, with the approval of the Lieutenant Governor in Council, enter into agreements on behalf of the Province of Ontario with any person in respect of this Act, including agreements regarding the performance of the IESO or electricity vendors under this Act or related transactions.

Guarantee, indemnification

(3) The Lieutenant Governor in Council may by order,

- (a) authorize the Minister and the Minister of Finance, acting together on behalf of the Province,
 - (i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
 - (ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;
- (b) specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and
- (c) specify a maximum liability for the guarantee or indemnity.

PART II FAIR ADJUSTMENT

Definition

6 In this Part,

“regulated rate consumer” means a specified consumer who meets the following criteria:

1. The consumer is a member of the class of consumers prescribed by the regulations made under the *Ontario Energy Board Act, 1998* for the purposes of subsection 79.16 (1) of that Act.
2. The consumer would, if the consumer were not subject to this Act, be invoiced the rates determined by the Board under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*.

Regulated rate consumers, first adjustments

7 (1) Despite clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, the electricity rates payable by regulated rate consumers for the period beginning on July 1, 2017 and ending on April 30, 2018 are the rates determined by the Board under this section and in accordance with the regulations.

Determination by Board

(2) The rates mentioned in subsection (1) shall be the rates that would result in a hypothetical regulated rate consumer who meets the prescribed criteria being invoiced a total invoice amount, consisting of such types of amounts as may be prescribed.

that is 25 per cent less than a different total invoice amount, consisting of such types of amounts as may be prescribed, that the consumer would have been invoiced under the comparison rates described in subsection (3).

Comparison rates

(3) The comparison rates are the rates that would have been effective May 1, 2017 if they had been determined by the Board for the consumer mentioned in subsection (2) using the method prescribed by the regulations made under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, without taking into account any forecasted impact of any other provisions of this Act.

Other specified consumers, first adjustments

8 (1) For the period beginning on July 1, 2017 and ending on April 30, 2018, the adjustments made under section 25.33 of the *Electricity Act, 1998* shall, with respect to specified consumers who are not regulated rate consumers, be further adjusted by electricity vendors in accordance with the regulations and in accordance with the determinations made by the Board in accordance with the regulations.

Regulations

(2) The regulations may specify different adjustments, or methods of determining the adjustments, to be made in respect of prescribed classes of specified consumers who are not regulated rate consumers.

Determinations by Board

9 The Board shall make the determinations mentioned in sections 7 and 8 no later than 15 business days after the day this section receives Royal Assent and, regardless of whether the Board makes the determinations before or after July 1, 2017, the determinations shall be effective as of July 1, 2017.

Implementation by electricity vendors

10 (1) As soon as possible after the Board makes determinations under section 9, each electricity vendor shall, in respect of electricity used on or after July 1, 2017, ensure that its invoices reflect the determinations of the Board.

Same

(2) The electricity vendor shall ensure that, if any of its customers who are specified consumers have been invoiced in a manner that does not reflect the determinations of the Board under section 9, the specified consumer receives the difference between the amounts shown on the invoice and the amounts reflecting the Board's determinations, provided as a lump sum credit on the first invoice issued after the electricity vendor has adapted its invoices or by such other means as may be prescribed.

Subsequent adjustments

11 (1) Despite clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998* and subject to subsection (2), the Lieutenant Governor in Council may prescribe methodologies to be applied by the Board after April 30, 2018 for the purpose of determining,

- (a) electricity rates for regulated rate consumers; or
- (b) further adjustments to be applied by electricity vendors, in accordance with the regulations and in accordance with the Board's determinations, to the adjustments made under section 25.33 of the *Electricity Act, 1998* in respect of specified consumers who are not regulated rate consumers.

Regulations

(2) The Lieutenant Governor in Council shall have regard to the following in making the regulations:

1. The purposes of this Act.
2. The clean energy costs borne by specified consumers over time.
3. Such other matters as may be prescribed.

Same

(3) The regulations may prescribe,

- (a) different methodologies for different prescribed classes of specified consumers and in respect of different periods of time; and
- (b) different adjustments to be applied in respect of prescribed classes of specified consumers who are not regulated rate consumers and in respect of different periods of time.

Sub-metering

12 (1) This section applies if a specified consumer provides to another person electricity in respect of which a determination of the Board referred to in section 9 or 11 applies.

Same

(2) If an invoice for the electricity is issued to the person by the specified consumer or a unit sub-meter provider providing unit sub-metering for the specified consumer, the amounts or rates payable for the electricity by the person who is liable to pay the invoice shall be determined in accordance with the regulations.

Same

(3) The regulations may prescribe different amounts or rates or different methods for determining amounts or rates for different prescribed classes of specified consumers.

PART III CLEAN ENERGY ADJUSTMENT

Specified consumers to pay

13 (1) Upon receipt of an invoice from an electricity vendor that includes an amount in respect of the clean energy adjustment, a specified consumer shall pay the amount to the electricity vendor as agent of the investment interest owners.

Same

(2) For greater certainty, subsection (1) applies regardless of whether any estimate, projection or other input used in calculating the clean energy adjustment was erroneous or out of date at the time of the calculation and regardless of whether any of those estimates, projections or other inputs is subsequently amended, updated or corrected.

Terms

(3) The payment shall be made in accordance with such terms of payment as may be specified in the invoice, which may include terms relating to late payment fees and interest charges.

Indebtedness of specified consumer

(4) An unpaid amount that is required to be paid by a specified consumer under this section constitutes indebtedness of the specified consumer to each investment interest owner to the extent of each owner's respective interest in the investment asset.

Same

(5) The indebtedness mentioned in subsection (4) is a single and separate debt obligation owed by the specified consumer and may be enforced independently from any other payment obligation or indebtedness owing by the specified consumer.

Unit sub-metering

(6) A specified consumer who provides electricity through unit sub-metering may collect amounts in respect of the clean energy adjustment payable under this section in accordance with the regulations.

Irrevocability of amount

14 (1) An amount in respect of the clean energy adjustment shown on an invoice issued to a specified consumer under this Act is determinative of the amount of the consumer's indebtedness resulting from the clean energy adjustment and is irrevocable upon invoicing the consumer and may not be set off or bypassed.

Exception

(2) Subsection (1) does not apply to the extent that the invoice reflects a clerical, typographical or calculation-related error.

Determination of clean energy adjustment**Financial Services Manager to determine**

15 (1) The Financial Services Manager shall determine the clean energy adjustment payable by all specified consumers in respect of each month in a reference period by taking the following steps:

1. Calculate the sum of the following:
 - i. The estimated finance amount in respect of the reference period.
 - ii. The true up amount in respect of the reference period.
2. Divide the sum calculated under paragraph 1 by the number of months in the reference period.

Regulations re true up amount

(2) The Lieutenant Governor in Council shall, in making regulations with respect to the determination of the true up amount, have regard to the following principles:

1. The true up amount should serve to ensure that the collection of the clean energy adjustment is sufficient to pay the finance amount when it is due.
2. The method for determining the true up amount should take into account historical and reasonably foreseeable.

- i. differences between the estimated and actual finance amount for the applicable reference period,
- ii. differences between amounts invoiced and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs, and
- iii. variations in billings due to variations in electricity consumption.

Financial Services Manager to notify Board

(3) The Financial Services Manager shall, in accordance with the regulations, notify the Board of the clean energy adjustment in respect of a reference period and such other information related to the determination of the clean energy adjustment as may be prescribed.

Board to determine rates

(4) Without changing the clean energy adjustment, the Board shall, in accordance with the regulations, determine the rates at which specified consumers are invoiced to recover the clean energy adjustment in respect of the reference period.

IESO to receive amounts

16 (1) The IESO shall, as agent of the investment interest owners, receive amounts in respect of the clean energy adjustment paid to it from electricity vendors in accordance with the market rules made under section 32 of the *Electricity Act, 1998* or the regulations.

Account

(2) All of the following amounts received by the IESO shall, until remitted to or for the benefit of the investment interest owners in accordance with subsection (4), be deposited promptly into an account established for the purposes of receiving those amounts:

1. Amounts described in subsection (1).
2. Payments made by specified consumers directly to the IESO as electricity vendor under subsection 13 (1).
3. Proceeds of amounts described in paragraphs 1 and 2.

Same, held in trust

(3) All amounts received by the IESO in respect of the clean energy adjustment shall, until remitted to or for the benefit of the investment interest owners, be held in trust by the IESO for the investment interest owners.

IESO to remit

(4) The IESO shall remit amounts received by it in respect of the clean energy adjustment, inclusive of interest earned on the amounts referred to in subsection (1), to or for the benefit of the investment interest owners in accordance with the regulations.

Electricity vendor to invoice specified consumers

17 (1) Each electricity vendor shall issue an invoice to each of its customers who is a specified consumer for the amount payable by the consumer in respect of the clean energy adjustment, as determined by applying the rate set by the Board under subsection 15 (4) and in accordance with the regulations.

Electricity vendor to report

(2) Each electricity vendor shall, in accordance with the regulations, promptly report to the IESO the total amount invoiced to its customers who are specified consumers in respect of the clean energy adjustment, the amount collected and such other information as may be prescribed.

Electricity vendor to collect

(3) Each electricity vendor shall, as agent of the investment interest owners, collect amounts in respect of the clean energy adjustment from specified consumers in accordance with the regulations.

Pro rating of payments

(4) If an electricity vendor receives a payment made by or on behalf of a specified consumer in respect of amounts payable under one or more invoices and the amount paid is less than the total amount payable, the electricity vendor shall allocate the payment on a pro rata basis to the clean energy adjustment and other amounts payable under the relevant invoices in respect of electricity charges in respect of the same invoice period.

Held in trust

(5) Payments received by an electricity vendor from or on behalf of specified consumers in respect of the clean energy adjustment and all proceeds of the payments shall, until remitted to the IESO for the benefit of the investment interest owners in accordance with subsection (6), be held by each electricity vendor in trust for the benefit of the investment interest owners.

Remittance to IESO

(6) Each electricity vendor shall remit amounts in respect of the clean energy adjustment to the IESO for the benefit of the investment interest owners in accordance with the regulations.

**PART IV
IMPLEMENTATION**

FINANCIAL SERVICES MANAGER

Appointment

18 Ontario Power Generation Inc. is appointed as the Financial Services Manager for the purposes of this Act, unless it is unable or unwilling to do so, in which case the Minister may appoint a different Financial Services Manager in accordance with the regulations.

Duties and powers

19 (1) The Financial Services Manager shall perform the duties assigned to it under this Act and may administer the investment asset on behalf of the investment interest owners.

Same

(2) The administration of the investment asset may include providing information to the IESO in respect of obligations under Part III and such other activities as may be prescribed.

Fees

(3) Subject to any prescribed limitations, the Financial Services Manager may establish and charge fees in relation to such matters as may be prescribed in accordance with the regulations, which regulations may provide for the ability to recover costs and expenditures and to earn a return.

Same, Board approval

(4) Before establishing fees under subsection (3), the Financial Services Manager shall submit them to the Board for approval in accordance with the regulations.

FAIR ALLOCATION AMOUNT

Minister to calculate fair allocation amount

20 (1) Before the first funding obligation is incurred, the Minister shall calculate a fair allocation amount in respect of each reference period as follows:

1. Determine, in accordance with the following steps and the regulations and by applying such method as the Minister considers appropriate, the estimated clean energy costs to be allocated to specified consumers in respect of the reference period:
 - i. Determine the clean energy costs incurred or expected to be incurred in respect of all reference periods.
 - ii. Determine the clean energy benefits in respect of,
 - A. all reference periods, and
 - B. the prescribed period of time that preceded the first reference period and during which clean energy costs were incurred.
 - iii. Attribute the value of the clean energy benefits determined under subparagraph ii across the reference periods and the period of time described in sub-subparagraph ii B.
 - iv. Allocate clean energy costs determined under subparagraph i in proportion to the relative attributions of clean energy benefits determined in subparagraph ii in respect of the reference periods.
2. Subject to subsection (2), determine, in accordance with the regulations and by applying such method as the Minister considers appropriate, the estimated financing costs, consisting of such types of costs as may be prescribed, in respect of the reference period.
3. Determine, in accordance with the regulations and by applying such method as the Minister considers appropriate, the estimated clean energy costs that would have been payable, in the absence of this Act, by specified consumers in respect of the reference period.
4. Determine the amount, if any, by which the sum of the determinations under paragraphs 1 and 2 exceeds the determination under paragraph 3.
5. Calculate the sum of the amount determined under paragraph 4 and such other amounts as may be prescribed in respect of the reference period.

Part II adjustments

(2) If the Board has made a determination under section 9 or 11 in respect of the reference period or in respect of a prior reference period and, as a result of the determination, the prescribed circumstances arise, the Minister shall take the prescribed steps to make the prescribed adjustments to the determination made under paragraph 2 of subsection (1).

Minister's considerations

(3) In calculating a fair allocation amount, the Minister shall have regard to the purposes of this Act and such other matters as may be prescribed.

Minister to inform Financial Services Manager

(4) The Minister shall provide the fair allocation amount in respect of each reference period to the Financial Services Manager.

Recalculation

(5) The calculation of a fair allocation amount under this Part may be changed by such person as may be prescribed, subject to the following requirements:

1. The prescribed person shall comply with such requirements as may be prescribed.
2. Subsections (1), (2) and (3) apply to the new calculation, with necessary modifications, as if that person were the Minister.

Same

(6) No change under subsection (5) shall affect any clean energy adjustment that arises as a result of a funding obligation that has been incurred before the change.

Information

(7) The Minister, the IESO, the Financial Services Manager, the Board and electricity vendors shall provide such information as may be prescribed in accordance with the regulations for the purposes of facilitating a change under subsection (5).

FINANCING PLAN**Financial Services Manager to prepare Financing Plan**

21 (1) The Financial Services Manager shall prepare a written plan entitled the Financing Plan to be used by the Financial Services Manager to evaluate whether potential funding obligations should be incurred for the purposes of a financing entity acquiring and financing an investment interest in accordance with this Act or for the purposes of a refinancing.

Plan to be provided to Minister

(2) The Financial Services Manager shall provide the Financing Plan to the Minister.

Principles

(3) In preparing the Financing Plan, the Financial Services Manager shall have regard to the following principles:

1. Funding obligations should be incurred such that, along with any funding obligations already incurred, the estimated finance amount that would, subject to any refinancing, become due and payable during a reference period will reasonably align with the fair allocation amount determined in respect of the reference period, in each case after reducing the fair allocation amount by the readjustment amount, if any, in respect of the reference period.
2. Incurrences should be implemented in a manner that, in the opinion of the Financial Services Manager, is reasonable, cost effective and that reflects prevailing market terms and conditions.
3. Reasonable assumptions should be made regarding such matters as may be prescribed.
4. Such other principles as may be prescribed.

Limitation

(4) In respect of each reference period from July 1, 2017 to April 30, 2021, no funding obligation shall be incurred that would result in amounts payable in respect of the clean energy adjustment in respect of the reference period unless,

- (a) the amounts are payable in respect of a reference period in respect of which there is no readjustment amount; or
- (b) if there is a readjustment amount in respect of the reference period, the amounts payable in respect of the clean energy adjustment in respect of the reference period do not exceed the fair allocation amount in respect of the reference period after subtracting the readjustment amount.

Other reports

(5) The Financial Services Manager shall submit to the Minister such reports and information as the Minister may require from time to time and shall, if required by the Minister to do so, examine, report and advise on any question relating to the Financing Plan.

Amendments to plan

(6) The Financial Services Manager may amend the Financing Plan at any time but no such amendment shall affect any clean energy adjustment that has already been determined under section 15 or any funding obligations that have already been incurred before the amendment.

Same

(7) In the event that the Financing Plan is amended, any reference in this Act to the Financing Plan is deemed to be a reference to the plan as amended.

Readjustment amount

(8) In this section,

“readjustment amount” has the meaning set out in the regulations.

Incurrence of funding obligations

22 (1) The Financial Services Manager shall ensure that funding obligations incurred for the purposes of this Act are incurred in a manner that is consistent with the applicable Financing Plan.

Financing entities

(2) In accordance with the Financing Plan, the Financial Services Manager may establish or cause to be established one or more financing entities that may incur funding obligations.

Prohibition

(3) Neither the Financial Services Manager nor a financing entity shall provide for funding obligations to be incurred with any recourse to any assets of an electricity vendor, the Board, Ontario Power Generation Inc., the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation or other agreement.

Effect of amendment to fair allocation amount

(4) Each funding obligation incurred and each transfer made by a financing entity is deemed to be consistent with the Financing Plan and to provide for the reasonable alignment of the estimated finance amount with the fair allocation amount.

Same

(5) For greater certainty, subsection (4) applies despite the failure of the Financial Services Manager to comply with subsection (1).

PART V THE REGULATORY ASSET

IESO deferral

23 (1) The IESO deferral for each month, commencing May 1, 2017, shall be determined by the IESO in accordance with the regulations.

Same, retrospective amounts

(2) For greater certainty, the regulations may provide for the IESO deferral to include an amount that was incurred by the IESO on or after May 1, 2017 and before the day this section comes into force.

Electricity vendors to provide information

(3) Electricity vendors shall provide to the IESO such information as the IESO may reasonably request for the purposes of determining the IESO deferral under subsection (1) and such further information as may be prescribed.

Same

(4) The IESO may rely on information provided by electricity vendors for the purposes of the determination under subsection (1).

Variance account to be established, maintained

24 (1) The IESO shall establish and maintain a variance account in which it records the following:

1. The IESO deferral for each month.

2. All payments received by the IESO resulting from the exercise of the right of recovery under section 25 and any transfer under section 26.
3. Such other adjustments as may be prescribed, including adjustments in respect of the period that commences on or after May 1, 2017 and before the day this section comes into force.

Recording determinative

(2) Subject to the correction of any obvious error by the IESO, its recording of the balance in the variance account is determinative of the balance as of the time of the recording.

Rights of investment interest owner

(3) No change made by the IESO to the balance in the variance account shall, if the previous balance was relied upon by an investment interest owner in the context of a transfer under section 26, affect the rights acquired by the investment interest owner under the transfer.

Regulatory asset established

25 (1) Effective May 1, 2017, the IESO has the right, exercisable in accordance with this Act and the regulations, to recover the balance recorded in the variance account from specified consumers.

Board to set rates

(2) Subject to subsection (3), the Board shall, from time to time and in accordance with the regulations, determine and set rates payable by specified consumers to allow for the IESO to recover the balance recorded in the variance account.

Limitation

(3) The IESO shall not be entitled to collect all or part of the balance recorded in the variance account from specified consumers before May 1, 2021.

Transfer of regulatory asset

26 (1) The IESO may from time to time, in accordance with this Act and the regulations, transfer a specified portion of the regulatory asset to a financing entity in accordance with this section.

Agreement

(2) An agreement between the IESO and a financing entity in relation to the transfer of a specified portion of the regulatory asset shall provide for consideration of a payment by the financing entity to the IESO in an amount equal to the amount of the specified portion.

Effect of payment

- (3) Upon receipt by the IESO of the payment by the financing entity,
- (a) the balance in the variance account shall be reduced by the amount of the payment;
 - (b) the regulatory asset shall be adjusted accordingly;
 - (c) the financing entity shall acquire a corresponding investment interest; and
 - (d) the IESO shall retain no further right, title or interest in the corresponding investment interest.

Validity of transfer

27 (1) A transfer of a specified portion of the regulatory asset under section 26 constitutes a valid and enforceable absolute assignment, conveyance and sale of the corresponding investment interest to the transferee.

Same

(2) Without limiting subsection (1), any transfer agreement that states an intention of the parties for the IESO to dispose of a specified portion of the regulatory asset and to assign, convey or sell a corresponding investment interest shall be treated for all purposes as an absolute assignment, conveyance, disposition and sale of the IESO's right to recover the corresponding amount in the variance account and not merely as a security interest.

Deemed perfection, etc.

(3) At the time a transfer of the regulatory asset is made under section 26, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer

(4) Subsection (3) applies regardless of whether the persons who have claims have received notice of the transfer and the property rights and interests acquired by the transferee shall have priority over any liens in favour of those persons.

PART VI THE INVESTMENT ASSET

Investment asset established

28 (1) The transfer of a specified portion of the regulatory asset under section 26 creates an investment asset or, if it is not the first transfer, adds to the investment asset.

Same

(2) Upon transfer of a specified portion of the regulatory asset under section 26 to a financing entity, the investment asset resulting from the transfer is immediately vested in the financing entity, free and clear of any adverse claim.

Investment asset, irrevocable rights and interests

29 (1) The investment asset constitutes a current and irrevocable property right and interest consisting, collectively, of the following rights and interests of investment interest owners:

1. The right and interest to impose, invoice, collect, receive and recover the clean energy adjustment from specified consumers, including the right to determine the clean energy adjustment in accordance with this Act.
2. The right to receive, collect and recover the clean energy adjustment that is imposed, invoiced and recoverable under this Act, including any amounts in respect of the clean energy adjustment that are held by electricity vendors, the IESO and other prescribed parties.
3. All rights and entitlements under such accounts as may be prescribed by regulation and all amounts on deposit in such accounts.
4. The right to enforce the duties and obligations under this Act of each electricity vendor to impose, attribute, charge and invoice for the clean energy adjustment.
5. The right to enforce the duties and obligations under this Act of each electricity vendor and the IESO to collect, receive and remit amounts received by it in respect of the clean energy adjustment, including all collections and the proceeds of any enforcement action undertaken by any electricity vendor to recover payment of the clean energy adjustment.
6. All rights of any kind related to any of the other property rights or interests that comprise the investment interest, including any rights to receive funding rebates.
7. All revenue, collections, claims, payments, money and proceeds of or derived from the rights described in paragraphs 1 to 6, regardless of whether it is invoiced, collected and maintained together with or commingled with other revenue, collections, claims, payments, money and proceeds.

Not affected by failure to impose etc. clean energy adjustment

(2) An investment interest is not affected by any failure to impose, attribute, invoice, accrue or collect amounts in respect of the clean energy adjustment.

No set off, etc.

(3) The investment asset shall not be set off,

- (a) by a consumer, an electricity vendor, the IESO, an agent of the investment interest owners or an owner in the Province of a distribution system within the meaning of the *Electricity Act, 1998*;
- (b) in connection with any default of a person mentioned in clause (a); or
- (c) by any affiliate or successor of a person mentioned in clause (a).

Exercise of rights

(4) The rights of the investment interest owners to collect the clean energy adjustment and enforce their rights and interests in, to and in respect of the investment asset against a specified consumer shall be exercised in accordance with Part III of this Act.

Collective action required

(5) If one investment interest owner owns a right or interest in the investment asset that comprises less than the entire property right and interest constituted by the investment asset, the right or interest shall only be enforced by the investment interest owner collectively and in coordination with all other investment interest owners, and any agreement among that collective in furtherance of the collective action shall be valid and binding on the investment interest owners as a collective in accordance with its terms.

Transfer of investment interest

30 An investment interest owner may transfer all or a portion of an investment interest to any other investment interest owner, including by way of a transfer of a divided or an undivided interest, in accordance with the Financing Plan.

Validity of transfer

31 (1) A transfer of an investment interest under this Act is a valid and enforceable sale and absolute transfer of the investment interest and confers upon the transferee a valid property right and interest in, to and under the applicable investment interest acquired in accordance with the terms of the transfer.

Same

(2) Without limiting subsection (1), a transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of an investment interest owner's right, title and interest in, to and under an investment interest, and not merely as a security interest, and upon such absolute transfer the transferor shall retain no right, title or interest in the investment interest subject to the transfer, including all rights to the investment interest arising after the transfer.

Deemed perfection, etc.

(3) At the time a transfer of an investment interest is made, the transfer shall be deemed to have been and shall be perfected as described in the *Personal Property Security Act*, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer, assignment, etc.

(4) Subsection (3) applies regardless of whether the persons who have claims have received notice of the transfer, and the property rights and interests acquired by the investment interest owner shall have priority over any liens in favour of such other persons.

Investment interest owner may grant security interest

32 (1) An investment interest owner may grant a security interest over all or a specified portion of its right, title and interest in, to and under the investment interest to or in favour of any person to secure a funding obligation.

Validity

(2) A security interest granted under this Act shall be valid and enforceable in accordance with its terms.

Perfection and priority of security interests

(3) All provisions of the *Personal Property Security Act* shall apply to the investment asset and each investment interest on the basis that the investment asset and each investment interest is intangible personal property, except as otherwise provided for in this section, and any granting of a security interest by an investment interest owner to secure a funding obligation shall, subject to the terms of the funding obligation, give rise to a security interest in respect of which that Act applies and may be perfected by registering a financing statement under that Act on that basis.

Proceeds

(4) All proceeds of an investment interest that are subject to the security interest and that are received by the investment interest owner shall immediately be subject to the security interest and shall be perfected without any physical delivery of the proceeds, registration of any financing statement or any further act.

Perfection

(5) The security interest shall be a continuously perfected security interest and shall have priority over any other lien, created by operation of law or otherwise, that may subsequently attach to the property rights and interests in the investment interest subject to the security interest, unless the person to whom the security interest has been granted consents otherwise.

Same

(6) The person to whom the security interest has been granted shall have a perfected security interest in revenues or other proceeds that are deposited in any account of any electricity vendor, an agent of an electricity vendor or other person who may have commingled such revenues or other proceeds with other funds.

Notice required

(7) The secured party shall be entitled to exercise the rights of an investment interest owner only after the secured party has given notice of the enforcement of its security interest to the IESO.

Interpretation

(8) For the purposes of this section, a security interest is perfected when it is perfected as described in the *Personal Property Security Act*.

PART VII MISCELLANEOUS

Appointment of agent, invoicing or collection

33 (1) If a prescribed circumstance applies, the Lieutenant Governor in Council may by regulation appoint a person to carry out some or all of the obligations of an electricity vendor under this Act in the place of an electricity vendor with respect to invoicing or collection.

Same, not Crown agent

(2) For greater certainty, a person appointed under this section is not an agent of the Crown for any purpose, despite the *Crown Agency Act*.

Board's authority

34 (1) Each electricity vendor, the IESO and the Financial Services Manager shall maintain such accounts and provide such information to the Board as the Board may require for the purposes of carrying out its responsibilities under this Act, in the form and manner and within the time required by the Board.

No hearing required

(2) Despite anything to the contrary in the *Ontario Energy Board Act, 1998*, the Board may exercise any of its responsibilities under this Act without a hearing.

Sequestration

35 (1) A court in the Province may, upon application by an investment interest owner or a secured party, order the sequestration and payment of amounts in respect of the clean energy adjustment, collections or remittances, as applicable, for the benefit of the investment interest owner or secured party by any person or entity authorized to collect amounts in respect of the clean energy adjustment.

Same

(2) An order under subsection (1) does not limit any other remedies available to the applicant.

Choice of law

36 The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to a transfer under this Act or the creation of a security interest in the regulatory asset, the investment asset, the clean energy adjustment or the undertaking of the Crown under section 5 shall be the laws of the Province.

Conflict

37 The provisions of this Act and the regulations apply despite any provision of any other Act regarding the attachment, assignment or perfection, or the effect of perfection or priority of any transfer or security interest.

No further approvals, etc.

38 Despite any requirement under any Act, no approvals, notices or authorizations other than those specified in this Act are required under the Financing Plan or in relation to the determination of the fair allocation amount.

Liability

39 (1) No action or other civil proceeding shall be commenced against any employee of the Province or Ontario Power Generation Inc. for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under this Act, the regulations or for any alleged neglect or default in the exercise or performance in good faith of such a power or duty.

Same

(2) Nothing in subsection (1) shall be read as limiting the effect of subsection 19 (1) of the *Electricity Act, 1998* or subsection 11 (1) of the *Ontario Energy Board Act, 1998*.

Same

(3) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

References in marketing materials and offering documents

40 No person shall include, in marketing materials or offering documents relating to the financing of funding obligations, references to any rights, obligations, guarantees or undertakings arising under section 5 unless the prescribed requirements, if any, are satisfied.

Compliance and restraining orders

Application to court

41 (1) On the application of an investment interest owner, the Superior Court of Justice may make an order described in subsection (2) if it is satisfied that an electricity vendor, the IESO or the Financial Services Manager has failed to comply with or has contravened this Act or the regulations or that one of those entities will fail to comply with or will contravene this Act or the regulations.

Order

(2) The Superior Court of Justice may, by order,

- (a) direct the electricity vendor, the IESO or the Financial Services Manager to comply with this Act or the regulations;
- (b) restrain the electricity vendor, the IESO or the Financial Services Manager from contravening this Act or the regulations; or
- (c) require compensation to be provided by the electricity vendor, the IESO or the Financial Services Manager to the investment interest owner.

Same

(3) An application under subsection (1) may be made by an investment interest owner in addition to exercising any other right of the investment interest owner.

Regulations

42 (1) The Lieutenant Governor in Council may make regulations in respect of the following matters:

1. Governing anything that is required or permitted to be prescribed or that is required or permitted to be done by, or in accordance with, the regulations or as authorized, specified or provided in the regulations.
2. Defining, for the purposes of a regulation, words and expressions used in this Act that are not defined in the Act.
3. Governing the incurrence of debt for the purposes of the definition of “refinancing” in subsection 1 (1).
4. Governing the inclusion of information under this Act on or with invoices, which may include requiring notice to be provided by electricity vendors to specified consumers and other prescribed persons regarding the adjustments, including providing for different requirements in different circumstances and for different classes of specified consumers.
5. Governing the inclusion of information about the clean energy adjustment and any other matters provided for under this Act on or with invoices issued to specified consumers, including the form that the information must take and the form of the invoices and the form of any notice to be provided to the specified consumer under this Act.
6. Governing the manner by which invoices or notices provided for under this Act are to be provided to specified consumers and other prescribed persons.
7. Providing for a right of compensation for investment interest owners affected by the failure of any person or entity to give effect to the rights and interests provided for under section 29 and the manner in which such a right may be enforced under this Act.
8. Prescribing the time within which any action required by this Act may be required to be done.
9. Providing for such other matters as the Lieutenant Governor in Council considers advisable to carry out the purpose of this Act.

Limitation

(2) Despite subsection (1) or any other Act, no regulation under this Act shall have the effect of reducing, impairing, postponing or terminating the obligations of specified consumers to pay amounts in respect of the clean energy adjustment or impairing or postponing the invoicing, collection, remittance or recovery of the clean energy adjustment.

PART VIII AMENDMENTS TO OTHER ACTS

Electricity Act, 1998

43 (1) Subsection 6 (1) of the *Electricity Act, 1998* is amended by adding the following clause:

(a) to exercise the powers and rights and to perform the duties and obligations assigned to it under the *Ontario Fair Hydro Plan Act, 2017* and to engage in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including,

(i) entering into agreements or arrangements with any person for the purposes of the *Ontario Fair Hydro Plan Act, 2017*.

- (ii) engaging in activities related to making payments to and receiving payments as contemplated under the *Ontario Fair Hydro Plan Act, 2017* and related settlement activities,
- (iii) engaging in activities related to the transfer and administration of the regulatory asset created under the *Ontario Fair Hydro Plan Act, 2017*, which activities may include,
 - (A) incurring liabilities in relation to the regulatory asset,
 - (B) transferring the regulatory asset under section 26 of the *Ontario Fair Hydro Plan Act, 2017* for consideration, and
 - (C) acting as a recovery agent under the *Ontario Fair Hydro Plan Act, 2017*;

(2) Subsection 25.33 (1) of the Act is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding the following clause:

- (c) such amounts as may be prescribed that are paid or incurred by the IESO in relation to the *Ontario Fair Hydro Plan Act, 2017*.

(3) Subsection 25.33 (2) of the Act is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding the following clause:

- (c) such amounts as may be prescribed that are paid or incurred by the IESO in relation to the *Ontario Fair Hydro Plan Act, 2017*.

(4) Clause 25.33 (4) (b) of the Act is amended by adding “or as may be required by a regulation made under this Act or the *Ontario Fair Hydro Plan Act, 2017*” at the end.

(5) Subsection 25.33 (5) of the Act is amended by adding “or under the *Ontario Fair Hydro Plan Act, 2017*” at the end.

(6) Section 53.1 of the Act is amended by adding the following subsections:

Same, *Ontario Fair Hydro Plan Act, 2017*

(1.1) In addition to the objects mentioned in subsection (1), the objects of Ontario Power Generation Inc. include exercising the powers and rights and performing the duties and obligations assigned to it under the *Ontario Fair Hydro Plan Act, 2017* and engaging in activities to facilitate the implementation of that Act, including entering into contracts and undertakings on behalf of financing entities and performing other services on behalf of financing entities, subject to the right to be paid by the financing entities for those services.

Subsidiaries, etc.

(1.2) Ontario Power Generation Inc. may create or invest in one or more subsidiaries, trusts, partnerships, limited partnerships or special purpose entities in order to more efficiently conduct its activities or achieve its objects.

Deemed assets, non-subsidiary

(1.3) Despite any other provision of this Act, the *Business Corporations Act* or any other Act, if a financing entity is not a subsidiary of Ontario Power Generation Inc.,

- (a) the assets and liabilities of the financing entity shall not form part of the assets and liabilities of Ontario Power Generation Inc. or any of its subsidiaries; and
- (b) the assets and liabilities of Ontario Power Generation Inc. or any of its subsidiaries shall not form part of the assets and liabilities of the financing entity.

Deemed assets, subsidiary

(1.4) Despite any other provision of this Act, the *Business Corporations Act* or any other Act, if a financing entity is a subsidiary of Ontario Power Generation Inc.,

- (a) the assets and liabilities of that financing entity shall not form part of the assets and liabilities of Ontario Power Generation Inc. or any of its other subsidiaries; and
- (b) the assets and liabilities of Ontario Power Generation Inc. or any of its other subsidiaries shall not form part of the assets and liabilities of that financing entity.

Definition, financing entity

(1.5) For the purposes of this section,

“financing entity” has the same meaning as in the *Ontario Fair Hydro Plan Act, 2017*.

Ontario Energy Board Act, 1998

44 (1) Subsection 70 (2.1) of the *Ontario Energy Board Act, 1998* is amended by adding the following paragraph:

- 4. The licensee is required to comply with the *Ontario Fair Hydro Plan Act, 2017*.

(2) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Fair Hydro Plan Act, 2017*

(2.4) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Fair Hydro Plan Act, 2017* and the regulations made under it.

(3) Section 78.1 of the Act is amended by adding the following subsections:

Same, limitation re Ontario Power Generation Inc.

(3) The determination of a payment to Ontario Power Generation Inc. under this section shall not include any consideration of amounts related to activities of Ontario Power Generation Inc. carried out in relation to the *Ontario Fair Hydro Plan Act, 2017*.

Same

(3.1) The amounts referred to in subsection (3) include, without limitation, the following:

1. Amounts related to the appointment of Ontario Power Generation Inc. as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.
2. Amounts related to the charging of fees for performing duties as the Financial Services Manager.
3. Amounts related to exercising the powers and performing the duties of the Financial Services Manager.
4. Amounts related to the consolidation of the assets and liabilities for accounting purposes of any special purpose financing entities established under and for the purposes of that Act.

(4) Subsection 79.16 (3) of the Act is repealed.

PART IX COMMENCEMENT AND SHORT TITLE

Commencement

45 This Schedule comes into force on the day the *Fair Hydro Act, 2017* receives Royal Assent.

Short title

46 The short title of the Act set out in this Schedule is the *Ontario Fair Hydro Plan Act, 2017*.

SCHEDULE 2
AMENDMENTS TO THE ONTARIO ENERGY BOARD ACT, 1998

1 (1) Subsection 79 (4) of the *Ontario Energy Board Act, 1998* is repealed and the following substituted:

Liability

(4) All consumers are required, in accordance with the regulations, to contribute towards the amount of any compensation required under subsection (3) that is not otherwise provided under subsection (4.1).

Payments for certain classes

(4.1) Compensation required under subsection (3) may be provided with respect to one or more prescribed classes of consumers who receive rate protection under this section, in a manner provided for in the regulations.

Money appropriated by the Legislature

(4.2) The compensation provided for in subsection (4.1) shall be paid for out of the money appropriated for those purposes by the Legislature.

Information, etc.

(4.3) If provided for in the regulations, the Board, the IESO and distributors, or any of them, shall provide such information and reports to the Ministry of Energy and to one another as are necessary to facilitate the implementation, administration, funding and delivery of the rate protection or of anything else provided for in this section.

(2) Clause 79 (5) (e) of the Act is repealed and the following substituted:

(e) prescribing rules respecting the amounts that must be collected to compensate distributors, taking into account any compensation provided under subsection (4.1), including rules,

- (i) respecting the calculation of those amounts,
- (ii) respecting the calculation of any off-set to the liability of consumers under subsection (3) having regard to those amounts,
- (iii) establishing the time and manner of collection,
- (iv) requiring the amounts to be paid in instalments and requiring the payment of interest or penalties on late payments,
- (v) prescribing methods of ensuring that the amounts required cannot be bypassed, and
- (vi) respecting the distribution of those amounts to consumers;

(e.1) prescribing classes of consumers for the purposes of subsection (4.1), and governing how and when the compensation is to be provided with respect to the rate protection provided to them, including, without restricting the generality of the foregoing, requiring the IESO to receive payments or amounts from the Minister of Energy and to make payments to licensed distributors or to prescribed persons and prescribing how and when payments are to be made;

2 Section 79.2 of the Act is repealed and the following substituted:

Rate assistance

79.2 (1) The Minister shall make provision for rate assistance for rate-assisted consumers having regard to their economic circumstances, and where the Minister makes such provision, shall do so out of the money provided for in subsection (4).

OESP

(2) The program known as the "Ontario Electricity Support Program" in English and "Programme ontarien d'aide relative aux frais d'électricité" in French is continued for the purpose of providing rate assistance to rate-assisted consumers having regard to their economic circumstances.

Administered by Board

(3) The Ontario Electricity Support Program shall be administered by the Board, or when the regulations so provide, by a Minister of the Crown or other entity provided for in the regulations.

Money appropriated by the Legislature

(4) The money required for the purposes of the Ontario Electricity Support Program shall be paid out of the money appropriated for those purposes by the Legislature, once the amounts recorded in the variance account referred to in subsection (5) are no longer sufficient to provide for the funding of the program when taken on their own.

Variance account

(5) The money required for the purposes of the Ontario Electricity Support Program shall be provided out of the credit balance in the variance account maintained by the IESO under the Program as it existed before the coming into force of section 2 of Schedule 2 to the *Fair Hydro Act, 2017* until the amounts recorded in the account are no longer sufficient, when taken on their own, to fund the Program.

Variance account depleted

(6) The IESO shall provide the Ministry of Energy with advance notice, on a timely basis, of the time the IESO estimates that the amounts reflected in the variance account would be less than the amount required to meet its obligations related to funding the Ontario Electricity Support Program for the upcoming month.

How provided

(7) Rate assistance provided under this section shall be provided with respect to consumers prescribed in the regulations, and shall be provided at the times provided for in the regulations and in the amounts and in the manner provided for in the regulations.

Payments with respect to prior use

(8) The regulations may require provision of rate assistance to prescribed classes of rate-assisted consumers with respect to electricity consumed during a period prior to the date of the making of the regulation, but no such rate assistance shall be required under the regulations with respect to electricity consumed before January 1, 2016.

Transitional

(9) The regulations may require the provision of rate assistance for a rate-assisted consumer with respect to a period prior to the date on which the consumer became a rate-assisted consumer if the consumer meets all of the criteria prescribed by the regulations.

Distributors, etc.

(10) A distributor, a unit sub-meter provider and any other person or entity that may be prescribed is entitled to be compensated from the money referred to in subsection (4) or (5), as the case may be, for any lost revenue resulting from the provision of rate assistance under the Ontario Electricity Support Program.

Deemed licence conditions, IESO, settlements, payments, etc.

(11) Every licence issued to the IESO, a distributor or unit sub-meter provider or a retailer of electricity shall be deemed to contain conditions requiring the licensee to do anything necessary to implement and administer the provision of rate assistance under this section as may be required by the regulations or the Board, including requirements with respect to,

- (a) making payments to the IESO, distributors, unit sub-meter providers and other persons and entities identified by the regulations;
- (b) receiving payments or other amounts from the IESO, distributors, unit sub-meter providers and other persons and entities identified by the Minister;
- (c) requiring licensees to pass any rate assistance provided for under this section through to rate-assisted consumers in the manner provided for in the regulations;
- (d) engaging in settlement activities;
- (e) providing information to and receiving information from the Ministry of Energy, the Board, the IESO, distributors, unit sub-meter providers, retailers of electricity and any other prescribed persons and entities in the time and in the manner provided for by the Board or as may be prescribed; and
- (f) entering into agreements or arrangements with licensees and other persons.

Information, etc.

(12) If provided for in the regulations, the Board, the IESO, distributors, retailers of electricity and unit sub-meter providers, or any of them, shall provide such information and reports to the Ministry of Energy and to one another as are necessary to facilitate the implementation, administration, funding and delivery of rate-assistance or of anything else required under this section.

Conflicts, etc.

(13) Where any conflict exists between an order of the Board, a code issued by the Board or a licence condition and this section or a regulation made under this section, this section or the regulation made under this section shall prevail to the extent of the conflict.

Regulations

(14) The Lieutenant Governor in Council may make regulations governing anything dealt with in this section and without limiting the generality of the foregoing, may make regulations,

- (a) governing anything that is described in this section as being prescribed or as being provided for in the regulations or that is required to be done in accordance with the regulations;
- (b) governing the time or times at which rate assistance shall be paid or become payable to rate-assisted consumers;
- (c) governing the determination of classes of consumers who are rate-assisted consumers, including providing for different classes of rate-assisted consumers;
- (d) requiring that certain costs and expenditures related to the Ontario Electricity Support Program be only incurred with the prior approval of the Minister, and governing those costs and expenditures;
- (e) establishing rules for the calculation of the amount of the rate assistance to be provided;
- (f) governing payments under this section, including determining the method or methods of calculating the amount of rate assistance to be provided;
- (g) setting maximum amounts of the total annual value of rate assistance that may be provided;
- (h) requiring a distributor, the IESO or a unit sub-meter provider or other prescribed person or entity to make or receive payments in respect of rate assistance, including requiring them to make or receive payments directly to or from the Ministry of Energy or to receive overpayments directly or indirectly from consumers or other persons entitled to receive the rate assistance and prescribing the circumstances in which such payments are to be made and received and such overpayments are to be received as well as methods for determining the amounts payable or to be received;
- (i) requiring the IESO to receive payments from the Minister and requiring the IESO to make payments to the Board, to licensed distributors, to unit sub-meter providers or to prescribed persons, in respect of the rate assistance provided under this section and governing methods for determining the amounts payable;
- (j) governing the Board's or other prescribed entity's administration and program-related costs in administering the Ontario Electricity Support Program;
- (k) governing transitional matters arising from the changes made to the Ontario Electricity Support Program as a result of the enactment of the *Fair Hydro Act, 2017*.

Retroactivity

(15) A regulation made under this section is, if it so provides, effective with reference to a period before it is filed.

General or particular

(16) A regulation under this section may be general or particular in application, may provide for different classes of persons and entities and may prescribe different rules for different persons or entities or different classes of persons or entities.

Verification of eligibility

(17) Section 11 of the *Ministry of Revenue Act* applies with respect to the Ontario Electricity Support Program as a government assistance program administered by the Board.

Definitions

(18) In this section,

“Government assistance program” has the meaning provided for in subsection 11 (2) of the *Ministry of Revenue Act*: (“programme d’aide gouvernementale”)

“rate-assisted consumer” means a consumer referred to in subsection (7). (“consommateur admissible à l’aide tarifaire”)

3 The Act is amended by adding the following section:**Confidentiality, information sharing, etc.**

79.2.1 (1) For the purposes of section 79.2, the Board or the Minister or entity having responsibility for administering the Ontario Electricity Support Program may enter into an agreement with the Minister of Community and Social Services to provide the services to the public listed in subsection (2) on behalf of the Board, Minister or the entity, as the case may be, in relation to the administration of the Ontario Electricity Support Program.

Agreement, etc.

(2) The services that may be included in an agreement referred to in subsection (1) are the following:

1. Providing documents and information about the Ontario Electricity Support Program.
2. Processing applications for the Ontario Electricity Support Program.

Arrangements with others

(3) The Minister of Community and Social Services may arrange with another person or entity to provide, on behalf of that Minister, services that that Minister is authorized to provide under an agreement referred to in subsection (1).

Personal information

(4) The Minister of Community and Social Services is authorized to collect, use, disclose and retain personal information necessary to provide the services authorized by an agreement referred to in subsection (1), but shall not collect, use, disclose or retain more personal information than is reasonably necessary to provide the services.

Limitation

(5) Except where otherwise authorized under subsection (7), the Minister of Community and Social Services shall not collect, use, disclose or retain personal information provided for in subsection (4) without the consent of the individual to whom the information relates.

Duty to transfer personal information

(6) The Minister of Community and Social Services shall transfer an individual's personal information provided for in subsection (4) into the control of the Board, Minister or entity responsible for administering the Ontario Electricity Support Program promptly after processing an application for the Ontario Electricity Support Program, but may retain such personal information as is reasonably necessary to confirm that an individual has been provided a service.

Use of personal information, etc.

(7) The Minister of Community and Social Services may use personal information maintained by that Minister in connection with the administration of the Ontario Disability Support Program and the program established pursuant to the *Ontario Works Act, 1997*, for the purpose of identifying and contacting individuals eligible for the rate assistance provided under the Ontario Electricity Support Program, and to provide services authorized under an agreement referred to in subsection (1).

Deemed compliance

(8) The use of personal information as allowed by subsection (7) is deemed to comply with section 41 of the *Freedom of Information and Protection of Privacy Act*.

Disclosure of list

(9) In order to assist the Minister of Community and Social Services to identify individuals eligible for rate assistance, the Board or the Minister or entity having responsibility for administering the Ontario Electricity Support Program shall, as soon as practicable after the coming into force of this section, disclose to the Minister of Community and Social Services a list of individuals who are enrolled in the Ontario Electricity Support Program, together with their mailing address and other contact information.

Use of list

(10) The Minister of Community and Social Services may use the information on the list provided under subsection (9) to determine whether an individual who is currently enrolled in the Ontario Disability Support Program or the program established under the *Ontario Works Act, 1997* is also enrolled in the Ontario Electricity Support Program.

Destruction of list

(11) The Minister of Community and Social Services shall destroy the list provided under subsection (9) no later than one year after receiving the list.

Notification about the management of personal information

(12) The Minister of Community and Social Services shall ensure that a notice is published on a website describing,

- (a) the purpose for which that Minister collects, uses, discloses and retains personal information in connection with the Ontario Electricity Support Program;
- (b) the types of personal information that may be collected, used, disclosed and retained in connection with the Ontario Electricity Support Program, and the circumstances in which the personal information may be collected, used, disclosed and retained in connection with that Program; and
- (c) the title, and contact information, including an email address, of an employee who can answer an individual's questions about the use of the personal information under this section.

4 The Act is amended by adding the following sections:**Distribution rate-protected residential consumers**

79.3 (1) The Minister shall provide for distribution rate protection to distribution rate-protected residential consumers having regard to the costs of the distribution of electricity to such consumers with respect to electricity consumed on or after the date prescribed by the regulations.

Money appropriated by the Legislature

(2) The money required for the purposes of the provision of distribution rate protection under this section shall be paid out of the money appropriated for those purposes by the Legislature.

Maximum charge

(3) Despite any order of the Board, or anything else under this Act, where the regulations so provide, a prescribed distributor who distributes electricity to distribution rate-protected residential consumers shall not charge those consumers, or a prescribed class of those consumers, any amount for monthly base distribution charges more than,

- (a) the maximum amount for the charge that is provided for in the regulations; or
- (b) the amount determined by the Board after applying any calculations, processes or methods provided for in the regulations.

Distributors

(4) A distributor who is prescribed under this section is entitled to be compensated from the money referred to in subsection (2) for lost revenue resulting from the provision of the distribution rate protection to distribution rate-protected residential consumers under this section.

Information, etc.

(5) If provided for in the regulations, the Board, the IESO and distributors, or any of them shall provide such information and reports to the Ministry of Energy and to one another as are necessary to facilitate the implementation, administration, funding and delivery of distribution rate protection or of anything else required under this section.

Limitation periods for distribution rate protection, consumer

(6) Despite any past entitlement of a consumer who is eligible to distribution rate protection under this section, no distribution rate protection is payable to a consumer after a limitation period prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Limitation, reimbursement of distributor, etc.

(7) Despite any requirement under this Act to reimburse a prescribed distributor or other person for distribution rate protection provided by them to distribution rate-protected residential consumers under this section, no amounts for reimbursement are payable to the prescribed distributor or other person after a limitation period prescribed by the regulations in respect of the prescribed distributor or other person, where such reimbursement is based on a consumer's past entitlement under this section which has not yet been paid or reimbursed under this section, other than in such circumstances as may be prescribed by the regulations.

Transitional

(8) If, for technical or operational reasons, a distributor referred to in subsection (3) is unable to adapt its invoices to comply with this section and the regulations by the time it issues its first invoice for electricity consumed after the prescribed date in respect of an account of a consumer who is eligible for distribution rate protection under this section,

- (a) the distributor shall adapt its invoices as soon as possible and, in any event, no later than a date prescribed in the regulations; and
- (b) consumers continue to be entitled to receive the distribution rate protection to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Regulations

(9) The Lieutenant Governor in Council may make regulations,

- (a) prescribing consumers or classes of consumers as distribution rate-protected residential consumers for the purposes of this section;
- (b) prescribing dates for the purposes of subsections (1) and (8);
- (c) prescribing distributors for the purposes of this section;
- (d) governing anything that is described in this section as being prescribed or as being provided for in the regulations or that is required to be done in accordance with the regulations;
- (e) governing the provision of distribution rate protection by the Minister in respect of distribution rate-protected residential consumers under this section including determining the method or methods of calculating the amount of rate protection to be provided;
- (f) requiring the IESO to receive payments from the Minister and to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of the distribution rate protection provided for under this section and

prescribing methods for determining the amounts payable to distributors or distribution rate-protected residential consumers in respect of that protection.

Interpretation

(10) In this section,

“distribution rate-protected residential consumer” has the meaning provided for in the regulations; (“consommateur résidentiel protégé contre les frais de distribution”)

“monthly base distribution charges” has the meaning provided for in the regulations. (“frais de distribution mensuels de base”)

Delivery credit for on-reserve consumers

79.4 (1) The Minister shall provide a delivery credit to on-reserve consumers who meet the criteria prescribed under this section with respect to electricity consumed on or after the date prescribed by the regulations.

Money appropriated by the Legislature

(2) The money required for the purposes of the provision of the credits required under this section shall be paid out of the money appropriated for those purposes by the Legislature.

Eligible costs

(3) The eligible costs for the delivery credit referred to in subsection (1) are,

(a) the sum of the following charges for which the consumer would otherwise be liable,

- (i) all variable and fixed distribution charges,
- (ii) all charges based on the retail transmission network service rate,
- (iii) all charges based on the retail transmission connection service rate,
- (iv) all charges related to losses incurred in the distribution of electricity, except for such amounts that are included in regulatory charges provided for in the regulations, and
- (v) any other charges that may be prescribed in the regulations; or

(b) where no separate charges for delivery are provided for by the distributor or other person or entity that may be prescribed in the regulations, the monthly service charge or such other amount as may be prescribed for or in respect of a prescribed distributor.

Delivery credit

(4) A distributor, person or entity shall, unless the regulations provide otherwise, provide the delivery credit referred to in subsection (1) by crediting the account of an on-reserve consumer.

Same

(5) The regulations may require that distributors and any other persons or entities provide a delivery credit to an on-reserve consumer who is entitled to a delivery credit under subsection (1) in such manner or in accordance with such methods as may be prescribed.

Same

(6) A distributor or any person or entity as may be prescribed is entitled to be compensated from the money referred to in subsection (2) for any lost revenue resulting from the provision of the delivery credits under this section.

Information, etc.

(7) If provided for in the regulations, the Board, the IESO and distributors, and other persons or entities, or any of them, shall provide such information and reports to the Ministry of Energy and to one another as are necessary to facilitate the implementation, administration, funding and delivery of the delivery credits or of anything else required under this section.

Limitation periods for delivery credit, consumer

(8) Despite any past entitlement of an on-reserve consumer who is eligible for a delivery credit under this section, no delivery credit is payable to an on-reserve consumer after a limitation period prescribed by the regulations in respect of the on-reserve consumer, other than in such circumstances as may be prescribed by the regulations.

Limitation, reimbursement of distributor, etc.

(9) Despite any requirement under this Act to reimburse a distributor or other persons or entities for delivery credits provided by them to on-reserve consumers under this section, no amounts for reimbursement are payable to the distributor or other persons or entities after a limitation period prescribed by the regulations in respect of the distributor or other persons or

entities, where such reimbursement is based on an on-reserve consumer's past entitlement under this section which has not yet been paid or reimbursed under this section, other than in such circumstances as may be prescribed by the regulations.

Transitional

(10) If, for technical or operational reasons, a distributor referred to in subsection (4) is unable to adapt its invoices to comply with this section and the regulations by the time it issues its first invoice for electricity consumed after the prescribed date in respect of an eligible account,

- (a) the distributor shall adapt its invoices as soon as possible and, in any event, no later than a date prescribed in the regulations; and
- (b) on-reserve consumers continue to be entitled to receive the delivery credit to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Regulations

(11) The Lieutenant Governor in Council may make regulations,

- (a) governing who is an on-reserve consumer for the purposes of this section and, without limiting the generality of the foregoing, may provide that consumers who occupy certain areas are on-reserve consumers, and may do so without regard to whether those areas constitute a "reserve" under any other Act or law;
- (b) prescribing dates for the purposes of subsections (1) and (10);
- (c) governing provision of the delivery credits provided to on-reserve consumers under this section and, without restricting the generality of the foregoing, governing anything that under this section is to be prescribed or provided for in the regulations, or that is to be done in accordance with the regulations;
- (d) determining the method or methods of calculating the amount of the delivery credits to be provided by the Minister in respect of on-reserve consumers under this section;
- (e) requiring the IESO to make and receive payments to and from the Minister and to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of the delivery credits provided for under this section and prescribing methods for determining the amounts payable to distributors or on-reserve consumers in respect of the credits provided.

Interpretation

(12) In this section,

"on-reserve consumer" has the meaning provided for in the regulations.

Application

79.5 Sections 79.6 through 79.11 apply to the programs provided for under sections 79, 79.2, 79.3 and 79.4 to the extent that they are funded by money appropriated for those purposes by the Legislature.

Definition

79.6 In sections 79.7 to 79.11,

"Finance Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

79.7 (1) Every distributor and every other person prescribed by regulation shall keep at a location in Ontario such records as are necessary to determine and verify compliance with sections 79, 79.2, 79.3 and 79.4 and the regulations associated with them and any records required by those regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

- (a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and
- (b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Finance Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than \$50 and not more than \$5,000.

Inspections and inquiries

79.8 (1) The Finance Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of sections 79, 79.2, 79.3 and 79.4 of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of sections 79, 79.2, 79.3 and 79.4 of this Act.

Admission of evidence

(3) The Finance Minister, or a person authorized by the Finance Minister, may, for any purpose related to the administration of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them, reproduce from original data stored electronically any information previously submitted as required under those sections or regulations in any form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Finance Minister may, for any purpose related to the administration of sections 79, 79.2, 79.3 and 79.4 of this Act or the regulations made in association with them, authorize any person, whether or not the person is an employee in the Ministry of the Finance Minister, to make such inquiry as the Finance Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything the person is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of *Public Inquiries Act*, 2009

(9) Section 33 of the *Public Inquiries Act*, 2009 applies to an inquiry under subsection (4).

Recovery of overpayments**Definitions**

79.9 (1) In this section,

“inspector” means an inspector referred to in section 79.8; (“inspecteur”)

“overpayment” means an amount received by a person in excess of that to which the person is entitled under sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them. (“trop-perçu”)

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Finance Minister may send a written notice to the person advising the person of the following:

1. That the person has received an overpayment.
2. The amount of the overpayment and how it was calculated.
3. The required steps to be taken by the person with respect to the overpayment.

4. The date, not more than six months after the date of the notice, by which these steps must be completed.
5. That the Finance Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Finance Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Finance Minister, the Finance Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Finance Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Finance Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Finance Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Finance Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deeming

(8) An amount assessed or reassessed by the Finance Minister under this section is deemed, for the purposes of the administration and enforcement of this Act, to be a debt retirement charge owing and payable, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

- (a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;
- (b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a) of this subsection, references to the Financial Corporation are read as references to the Minister of Finance and references to the Minister of Finance are read as references to the Finance Minister as defined in section 79.6 of this Act;
- (c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and
- (d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Finance Minister, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

79.10 (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

- (a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Finance Minister for the purposes of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them; or
- (b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

- (a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Finance Minister for the purposes of this Act; or
- (b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

- (a) criminal proceedings under any Act of the Parliament of Canada;
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
- (c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them,

- (a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them; and
- (b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Finance Minister may permit information or a copy of any record or thing obtained by or on behalf of the Finance Minister for the purposes of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them to be given to,

- (a) the person from whom the information, record or thing was obtained;
- (b) any person by whom an amount is payable or has been paid under sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them; or
- (c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Finance Minister may permit information or a copy of any record or thing obtained by or on behalf of the Finance Minister for the purposes of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them to be given to any person employed by any government if,

- (a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and
- (b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Offences**False statements, etc., and fraud**

79.11 (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them.
2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of any person, for the purpose of evading compliance with sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them.
3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of any person required to maintain records for the purposes of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them.
4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of any person required to maintain records for the purposes of sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them.
5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under sections 79, 79.2, 79.3 and 79.4 or the regulations made in association with them.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than \$1,000 and not more than \$10,000.
2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omission, any other requirement imposed under sections 79, 79.2, 79.3 and 79.4 is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than \$50 and not more than \$5,000.

Limitation period

(4) A proceeding to prosecute an offence provided for in this section must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

(5) Fines imposed on conviction of an offence provided for in this section are payable to the Finance Minister on behalf of the Crown in right of Ontario.

Commencement

5 (1) Subject to subsection (2), this Schedule comes into force on the day the *Fair Hydro Act, 2017* receives Royal Assent.

(2) Section 2 comes into force on a day to be named by proclamation of the Lieutenant Governor.

EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 132 and does not form part of the law.
Bill 132 has been enacted as Chapter 16 of the Statutes of Ontario, 2017.*

The Bill enacts a new Act and makes amendments to the *Electricity Act, 1998* and the *Ontario Energy Board Act, 1998*.

**SCHEDULE 1
ONTARIO FAIR HYDRO PLAN ACT, 2017**

The Schedule enacts the *Ontario Fair Hydro Plan Act, 2017*. The Act establishes a framework under which the costs and benefits associated with the “clean energy initiative” are to be allocated among present and future consumers of electricity. The “clean energy initiative” is defined in Part I as consisting of the policies of the Government of Ontario related to such matters as eliminating coal generation and fostering the growth of and investment in clean, modern and reliable energy sources and technologies.

Under Part II, the Ontario Energy Board is required to determine reduced electricity rates and to determine other adjustments to be made for certain classes of consumers in respect of specified periods of time. For example, for the class of consumers referred to as “regulated rate consumers”, the electricity rates payable for the period beginning on July 1, 2017 and ending on April 30, 2018 are the rates, as determined by the Board, that would result in a hypothetical member of the class being invoiced a total invoice amount that is 25 per cent less than a different total invoice amount that the consumer would have been invoiced under comparison rates. Details regarding the determinations are prescribed by regulations.

Part III requires certain electricity consumers to pay an amount in respect of the “clean energy adjustment”. The clean energy adjustment is determined by the Financial Services Manager in accordance with rules set out in the Act and the regulations. (Section 18 of the Act appoints Ontario Power Generation Inc. as the Financial Services Manager except if specified circumstances arise.) Part III also specifies the roles and responsibilities of electricity vendors and the Independent Electricity System Operator (“IESO”) with respect to the collection and remittance of amounts in respect of the clean energy adjustment.

Part IV requires the Minister of Energy to calculate a “fair allocation amount” by taking specified steps. It also requires the Financial Services Manager to prepare a written plan entitled the “Financing Plan”, which is to be used to evaluate whether potential funding obligations should be incurred. Principles and limitations regarding the preparation and implementation of the plan are provided.

Part V requires the IESO to determine the “IESO deferral” in accordance with the regulations and to establish and maintain a variance account in which it records the IESO deferral each month. A “regulatory asset” is created under section 25: the IESO has the right to recover the balance recorded in the variance account from certain consumers. The IESO is authorized to transfer a specified portion of the regulatory asset to a financing entity; this transfer results in the creation of the investment asset and the acquisition by the transferee of a corresponding “investment interest”. Various rules respecting the validity and priority of a transfer of an investment interest are set out.

In Part VI, rules in respect of the “investment asset” are provided. Section 29 provides that the investment asset constitutes a current and irrevocable property right and interest, consisting collectively of various specified rights and interests of investment interest owners. Rules respecting the validity and priority of such a transfer and the granting of a security interest by an investment interest owner are included.

Part VII deals with various miscellaneous matters, including regulation-making authority of the Lieutenant Governor in Council.

The *Electricity Act, 1998* and the *Ontario Energy Board Act, 1998* are amended to address various matters relating to the enactment of the new Act. For example, the objects of the IESO and Ontario Power Generation Inc. are expanded to address powers and duties under the new Act.

**SCHEDULE 2
AMENDMENTS TO THE ONTARIO ENERGY BOARD ACT, 1998**

The *Ontario Energy Board Act, 1998* is amended. Among the amendments:

1. Section 79 of the Act is amended so that compensation for the rate protection provided to certain classes of rural or remote consumers may be funded out of money appropriated by the Legislature, rather than by consumers.
2. Section 79.2 of the Act, which governs the Ontario Electricity Support Program, is repealed and replaced. The program is continued, but will be funded out of money appropriated by the Legislature after the variance account maintained by the Independent Electricity System Operator, formerly established under the Plan, is exhausted, rather than by consumers. There are provisions relating to the sharing, use and disclosure of information relating to the administration of the Ontario Electricity Support Program.

3. Programs are established to aid certain distribution rate-protected residential consumers and on-reserve consumers.
4. Various amendments of a technical and administrative nature are made to support the implementation and oversight of these programs including provisions related to auditing, record-keeping, inspections and inquiries, offences and penalties.

CHAPITRE 16

Loi édictant la Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables et modifiant la Loi de 1998 sur l'électricité et la Loi de 1998 sur la Commission de l'énergie de l'Ontario

Sanctionnée le 1^{er} juin 2017

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Contenu de la présente loi

1 La présente loi est constituée du présent article, des articles 2 et 3 et de ses annexes.

Entrée en vigueur

2 (1) Sous réserve des paragraphes (2) et (3), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.

(2) Les annexes de la présente loi entrent en vigueur comme le prévoit chacune d'elles.

(3) Si une annexe de la présente loi prévoit que l'une ou l'autre de ses dispositions entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation, la proclamation peut s'appliquer à une ou à plusieurs d'entre elles. En outre, des proclamations peuvent être prises à des dates différentes en ce qui concerne n'importe lesquelles de ces dispositions.

Titre abrégé

3 Le titre abrégé de la présente loi est *Loi de 2017 pour des frais d'électricité équitables*.

ANNEXE 1
LOI DE 2017 SUR LE PLAN ONTARIEN POUR DES FRAIS D'ÉLECTRICITÉ ÉQUITABLES

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Préambule

Le gouvernement de l'Ontario s'engage à favoriser le développement d'un réseau d'électricité propre, moderne et fiable aux sources d'approvisionnement diversifiées. Il s'engage également à supprimer les obstacles à la réalisation de projets d'énergie renouvelable et propre et à promouvoir les possibilités dans ce domaine. Ces engagements ne peuvent se concrétiser sans une répartition équitable des coûts entre les consommateurs, aujourd'hui et à l'avenir.

Les tarifs d'électricité ont augmenté pour deux raisons essentielles. Premièrement, des décennies de sous-investissement dans le réseau électrique ont nécessité un investissement de plus de 50 milliards de dollars dans les actifs de production, de transport et de distribution pour faire en sorte que le réseau soit propre et fiable. Deuxièmement, la décision d'éliminer l'utilisation du charbon en Ontario et de produire de l'énergie propre et renouvelable a donné lieu à des coûts additionnels.

Les mesures prises pour obtenir un réseau d'électricité propre, moderne et fiable ont coûté cher aux consommateurs résidentiels, qui ont injustement dû supporter presque tout le fardeau du financement de ces améliorations et des programmes clés.

Le gouvernement de l'Ontario s'engage donc à faire en sorte que les coûts de financement de ces investissements et les frais connexes pour les consommateurs soient répartis équitablement entre les générations actuelle et futures.

Étant donné que les avantages résultant de l'infrastructure d'électricité qui a été mise en place et des décisions politiques qui ont été prises s'étendront sur des années, les coûts devraient être répartis équitablement au fil du temps pour qu'à l'avenir les consommateurs résidentiels paient leur juste part des avantages dont ils jouissent grâce aux investissements déjà effectués.

PARTIE I DISPOSITIONS GÉNÉRALES

Interprétation

Définitions

1 (1) Les définitions qui suivent s'appliquent à la présente loi.

«actif d'investissement» Les droits et intérêts visés à l'article 29. («investment asset»)

«actif réglementaire» Le droit créé aux termes de l'article 25. («regulatory asset»)

«activités liées aux compteurs divisionnaires d'unité» S'entend au sens de la *Loi de 2010 sur la protection des consommateurs d'énergie*. («unit sub-metering»)

«ajustement pour l'énergie propre» La somme, calculée en application de l'article 15, que doivent payer les consommateurs déterminés. («clean energy adjustment»)

«avantages de l'énergie propre» S'entend de la valeur des avantages qui sont attribuables à l'initiative pour l'énergie propre et qui s'accumulent au profit des consommateurs déterminés, notamment en raison des coûts de l'énergie propre. («clean energy benefits»)

«Commission» La Commission de l'énergie de l'Ontario. («Board»)

«compte d'écart» Le compte d'écart créé par la SIERE en application du paragraphe 24 (1). («variance account»)

«consommateur déterminé» Selon le cas :

a) personne qui a un compte auprès d'un vendeur d'électricité en vue d'être approvisionnée en électricité en Ontario et qui répond aux critères énoncés au paragraphe (2);

b) toute autre personne prescrite. («specified consumer»)

«coûts de l'énergie propre» S'entend de la valeur des coûts répartis entre les consommateurs déterminés en raison de l'initiative pour l'énergie propre, notamment en raison des coûts déjà engagés et des coûts actuels et prévus à engager à l'égard de ce qui suit :

- a) les sommes à payer ou à prendre en compte par la SIERE dans les ajustements effectués en application de l'article 25.33 de la *Loi de 1998 sur l'électricité* ou de toute disposition qui remplace cet article, qui se rapportent aux contrats ou aux sommes visant :
- (i) la production ou la capacité de production d'énergie renouvelable,
 - (ii) les économies d'énergie et la gestion de la demande,
 - (iii) le stockage d'énergie,
 - (iv) l'efficacité énergétique,
 - (v) la production et la capacité de production de gaz naturel, à l'exclusion des contrats se rapportant aux sommes à payer par la SIERE en application de l'article 78.2 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* et des contrats prescrits;
- b) les paiements effectués ou prévus qui sont exigés par l'article 78.5 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*;
- c) les autres coûts ou coûts estimatifs prescrits. («clean energy costs»)
- «détaillant titulaire d'un permis» Personne à laquelle a été délivré, en vertu de la partie V de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, un permis l'autorisant à vendre de l'électricité au détail. («licensed retailer»)
- «détenteur d'une participation d'investissement» Entité de financement qui a acquis et qui détient une participation d'investissement. («investment interest owner»)
- «distributeur titulaire d'un permis» Personne à laquelle a été délivré, en vertu de la partie V de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, un permis l'autorisant à être propriétaire ou exploitant d'un réseau de distribution au sens de cette loi. («licensed distributor»)
- «entité de financement» Entité que crée ou fait créer le gestionnaire des services financiers en vertu du paragraphe 22 (2). («financing entity»)
- «fournisseur de compteurs divisionnaires d'unité» S'entend au sens de la *Loi de 2010 sur la protection des consommateurs d'énergie*. («unit sub-meter provider»)
- «gestionnaire des services financiers» Le gestionnaire des services financiers nommé en application de l'article 18. («Financial Services Manager»)
- «initiative pour l'énergie propre» Les politiques du gouvernement de l'Ontario qui visent :
- a) à éliminer la production au charbon et à favoriser le développement de sources d'énergie et de technologies énergétiques propres, modernes et fiables ainsi que l'investissement dans ce domaine;
 - b) à supprimer les obstacles et à promouvoir les possibilités en ce qui a trait aux sources et aux technologies d'énergie propre et renouvelable;
 - c) à promouvoir les économies d'énergie, la gestion de la demande et l'efficacité énergétique;
 - d) à investir dans l'infrastructure énergétique afin de pouvoir compter sur un réseau propre, moderne et fiable. («clean energy initiative»)
- «ministre» Le ministre de l'Énergie ou l'autre membre du Conseil exécutif qui est chargé de l'application de la présente loi en vertu de la *Loi sur le Conseil exécutif*. («Minister»)
- «montant d'égälisation» Montant d'égälisation établi conformément aux règlements. («true up amount»)
- «montant de financement» Le montant de financement établi conformément aux règlements. («finance amount»)
- «montant de répartition éqüitable» Montant calculé en application de l'article 20. («fair allocation amount»)
- «obligation de financement» Obligation de paiement contractée par le détenteur d'une participation d'investissement ou pour son compte pour financer l'acquisition d'une telle participation, ou obligation de paiement qui répond aux critères prescrits. («funding obligation»)
- «Ontario Power Generation Inc.» La personne morale constituée sous le nom de Ontario Power Generation Inc. sous le régime de la *Loi sur les sociétés par actions* le 1^{er} décembre 1998. («Ontario Power Generation Inc.»)
- «participation d'investissement» S'entend :
- a) d'un intérêt sur l'actif d'investissement;
 - b) en cas de transfert de l'intérêt, les droits et avantages prévus par l'accord de transfert de cet intérêt. («investment interest»)

«période de référence» Selon le cas :

- a) la période qui commence le 1^{er} juillet 2017 et se termine 31 octobre 2017;
- b) au cours de la période qui commence le 1^{er} novembre 2017 et se termine le 30 avril 2047 ou à la date ultérieure prescrite par règlement :
 - (i) chaque période de six mois qui suit la période mentionnée à l'alinéa a),
 - (ii) toute période prescrite de moins de six mois. («reference period»)

«Plan de financement» Le plan préparé en application de l'article 21. («Financing Plan»)

«prescrit» Prescrit par règlement. («prescribed»)

«refinancement» Sous réserve des règlements, la contraction d'une dette dans le cadre du rachat ou du remboursement d'une obligation de financement. («refinancing»)

«règlement» Tout règlement pris en vertu de la présente loi. («regulation»)

«remboursement de financement» Obligation de paiement contractée par la SIERE dans le cadre du transfert de l'actif réglementaire. («funding rebate»)

«report de la SIERE» La somme établie en application de l'article 23. («IESO deferral»)

«SIERE» La Société indépendante d'exploitation du réseau d'électricité prorogée en application de la partie II de la *Loi de 1998 sur l'électricité*. («IESO»)

«transfert» Relativement à une participation d'investissement, s'entend notamment de la cession, du transport, de l'aliénation ou de la vente de celle-ci. («transfer»)

«vendeur d'électricité» S'entend :

- a) d'un distributeur titulaire d'un permis;
- b) d'un détaillant titulaire d'un permis;
- c) de la SIERE, dans les cas où elle facture directement un consommateur déterminé pour de l'électricité utilisée en Ontario;
- d) de toute autre personne prescrite. («electricity vendor»)

Consommateur déterminé

(2) Pour l'application de l'alinéa a) de la définition de «consommateur déterminé» au paragraphe (1), la personne doit répondre à au moins un des critères suivants :

1. Sa demande d'électricité n'est pas supérieure à 50 kilowatts ou à toute autre quantité prescrite.
2. Sa consommation annuelle d'électricité n'est pas supérieure à 250 000 kilowatts-heures ou à toute autre quantité prescrite.
3. Elle exploite une entreprise qui constitue une entreprise agricole pour l'application de la *Loi de 1993 sur l'inscription des entreprises agricoles et le financement des organismes agricoles* et soit possède un numéro d'inscription valide qui lui a été attribué en application de cette loi, soit a été dispensé, conformément à une ordonnance rendue en application du paragraphe 22 (6) de cette loi, de l'obligation de déposer une formule d'inscription d'entreprise agricole.
4. Le compte qu'elle a ouvert auprès du vendeur d'électricité se rapporte :
 - i. soit à un logement,
 - ii. soit à une propriété au sens de la *Loi de 1998 sur les condominiums*,
 - iii. soit à un ensemble d'habitation au sens du paragraphe 2 (1) de la *Loi de 2006 sur la location à usage d'habitation*, sans égard à l'article 5 de cette loi,
 - iv. soit à un bien comptant un ou plusieurs logements et dont une coopérative au sens de la *Loi sur les sociétés coopératives* est propriétaire ou preneur à bail.
5. Elle répond aux critères prescrits.

Transfert de l'actif réglementaire

(3) Toute mention dans la présente loi du transfert d'une partie déterminée de l'actif réglementaire vaut mention de ce qui suit, comme le prévoit le paragraphe 26 (3) :

1. Une réduction du solde du compte d'écart.

2. L'ajustement de l'actif réglementaire.

3. L'acquisition par une entité de financement de la participation d'investissement qui correspond à la partie déterminée de l'actif réglementaire.

Effet de l'invalidité

2 (1) Il est entendu que toutes les dispositions de la présente loi demeurent en vigueur même si une ou plusieurs d'entre elles sont tenues pour invalides, l'intention de la législature étant de donner effet de manière distincte et indépendante, dans la mesure de ses pouvoirs, à chacune des dispositions de la présente loi.

Idem : obligation de financement

(2) Le fait qu'une disposition de la présente loi est tenue pour invalide ou cesse d'avoir effet pour une raison quelconque n'a aucune incidence sur la validité ou le caractère exécutoire d'une obligation de financement contractée avant le jour où la disposition est tenue pour invalide ou cesse d'avoir effet, ni sur les droits ou obligations associés à l'obligation de financement.

Objets

3 Les objets de la présente loi sont les suivants :

- a) faire en sorte que les coûts de l'énergie propre et les avantages de l'énergie propre soient répartis équitablement entre les consommateurs déterminés actuels et futurs;
- b) reconnaître que les avantages de l'énergie propre s'accumulent et continueront de s'accumuler au fil du temps et que les actuels et futurs consommateurs d'électricité de la province continueront d'en bénéficier;
- c) faire concorder les coûts de l'énergie propre et les avantages de l'énergie propre afin d'assurer un traitement équitable des consommateurs déterminés au fil du temps.

Couronne liée

4 La présente loi lie la Couronne.

Protection et assurances

Interdiction

5 (1) Aucun acte ou omission de la Commission, du ministre ou de la Couronne ne peut avoir pour effet de diminuer, de restreindre ou de différer les obligations qu'ont les consommateurs déterminés de payer les sommes se rapportant à l'ajustement pour l'énergie propre ou de mettre fin à ces obligations, ni de compromettre ou de différer la facturation, la perception ou le versement de cet ajustement.

Accords

(2) Le ministre et le ministre des Finances peuvent, de concert, avec l'approbation du lieutenant-gouverneur en conseil, conclure au nom de la province de l'Ontario des accords avec toute personne à l'égard de la présente loi, notamment des accords concernant les activités de la SIERE ou des vendeurs d'électricité dans le cadre de la présente loi ou des transactions connexes.

Garantie ou remboursement

(3) Le lieutenant-gouverneur en conseil peut, par décret :

- a) autoriser le ministre et le ministre des Finances, agissant de concert au nom de la province :
 - (i) à accepter de garantir ou de rembourser les dettes, obligations, valeurs mobilières ou engagements associés à une participation d'investissement,
 - (ii) à fixer les conditions et le plafond de la garantie ou du remboursement;
- b) préciser les conditions que doit comprendre une garantie ou un remboursement donné par le ministre et le ministre des Finances;
- c) préciser le plafond de la garantie ou du remboursement.

PARTIE II AJUSTEMENT ÉQUITABLE

Définition

6 La définition qui suit s'applique à la présente partie.

«consommateur aux tarifs réglementés» Consommateur déterminé qui répond aux critères suivants :

- 1. Il est membre de la catégorie de consommateurs prescrite par les règlements pris en vertu de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* pour l'application du paragraphe 79.16 (1) de cette loi.

2. S'il n'était pas visé par la présente loi, il serait facturé aux tarifs établis par la Commission en application de l'alinéa 79.16 (1) b) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*.

Consommateurs aux tarifs réglementés : premiers ajustements

7 (1) Malgré l'alinéa 79.16 (1) b) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, les tarifs d'électricité payables par les consommateurs aux tarifs réglementés pour la période qui commence le 1^{er} juillet 2017 et se termine le 30 avril 2018 sont les tarifs établis par la Commission en application du présent article et conformément aux règlements.

Tarifs établis par la Commission

(2) Les tarifs visés au paragraphe (1) sont ceux qui auraient pour résultat que le montant total, constitué des types de montants prescrits, de la facture d'un consommateur aux tarifs réglementés hypothétique répondant aux critères prescrits soit inférieur de 25 % au montant total différent, constitué des types de montants prescrits, qui aurait été facturé à ce même consommateur selon les tarifs de comparaison visés au paragraphe (3).

Tarifs de comparaison

(3) Les tarifs de comparaison sont ceux qui auraient été en vigueur le 1^{er} mai 2017 si la Commission les avait établis pour le consommateur visé au paragraphe (2) à l'aide de la méthode prescrite par les règlements pris en vertu de l'alinéa 79.16 (1) b) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, sans tenir compte de l'effet prévu des autres dispositions de la présente loi.

Autres consommateurs déterminés : premiers ajustements

8 (1) Pour la période qui commence le 1^{er} juillet 2017 et se termine le 30 avril 2018, les ajustements effectués en application de l'article 25.33 de la *Loi de 1998 sur l'électricité* sont, pour les consommateurs déterminés qui ne sont pas des consommateurs aux tarifs réglementés, rajustés de nouveau par les vendeurs d'électricité conformément aux règlements, sous réserve des décisions prises par la Commission conformément aux règlements.

Règlements

(2) Les règlements peuvent prévoir des ajustements différents à effectuer pour des catégories prescrites de consommateurs déterminés qui ne sont pas des consommateurs aux tarifs réglementés, ou prévoir les méthodes d'établissement de ces ajustements.

Décisions de la Commission

9 La Commission prend les décisions visées aux articles 7 et 8 dans les 15 jours ouvrables qui suivent le jour où le présent article reçoit la sanction royale et ces décisions prennent effet à compter du 1^{er} juillet 2017, que la Commission les prenne avant ou après cette date.

Application par les vendeurs d'électricité

10 (1) Dès que possible après que la Commission prend des décisions en application de l'article 9, chaque vendeur d'électricité veille à ce que ses factures tiennent compte de ces décisions en ce qui concerne l'électricité utilisée à compter du 1^{er} juillet 2017.

Idem

(2) Si certains de ses clients qui sont des consommateurs déterminés ont été facturés d'une manière qui ne tient pas compte des décisions prises par la Commission en application de l'article 9, le vendeur d'électricité veille à ce qu'ils reçoivent la différence entre les sommes indiquées sur la facture et celles qui tiennent compte de ces décisions, cette différence devant être payée sous forme de crédit forfaitaire indiqué sur la première facture émise après que le vendeur d'électricité a adapté ses factures ou par tout autre moyen prescrit.

Ajustements subséquents

11 (1) Malgré l'alinéa 79.16 (1) b) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* et sous réserve du paragraphe (2), le lieutenant-gouverneur en conseil peut prescrire les méthodes que doit appliquer la Commission après le 30 avril 2018 pour décider de ce qui suit :

- a) les tarifs d'électricité des consommateurs aux tarifs réglementés;
- b) les nouveaux ajustements que les vendeurs d'électricité doivent appliquer, conformément aux règlements et aux décisions de la Commission, aux ajustements effectués en application de l'article 25.33 de la *Loi de 1998 sur l'électricité* à l'égard des consommateurs déterminés qui ne sont pas des consommateurs aux tarifs réglementés.

Règlements

(2) Le lieutenant-gouverneur en conseil doit tenir compte de ce qui suit lorsqu'il prend des règlements :

1. Les objets de la présente loi.
2. Les coûts de l'énergie propre pris en charge par les consommateurs déterminés au fil du temps.

3. Les autres questions prescrites.

Idem

(3) Les règlements peuvent prescrire :

- a) des méthodes différentes selon les catégories prescrites de consommateurs déterminés et selon les périodes;
- b) des rajustements différents à appliquer à l'égard de catégories prescrites de consommateurs déterminés qui ne sont pas des consommateurs aux tarifs réglementés et des rajustements différents selon les périodes.

Activités liées aux compteurs divisionnaires

12 (1) Le présent article s'applique si un consommateur déterminé fournit à une autre personne de l'électricité à l'égard de laquelle s'applique une décision prise par la Commission en application de l'article 9 ou 11.

Idem

(2) Si le consommateur déterminé ou un fournisseur de compteurs divisionnaires d'unité qui exerce des activités liées à ces compteurs pour le compte du consommateur déterminé émet une facture à la personne pour l'électricité, les montants ou les tarifs à payer pour l'électricité par la personne tenue d'acquitter la facture sont établis conformément aux règlements.

Idem

(3) Les règlements peuvent prescrire des montants ou tarifs différents ou des méthodes différentes d'établissement des montants ou tarifs selon les catégories prescrites de consommateurs déterminés.

PARTIE III AJUSTEMENT POUR L'ÉNERGIE PROPRE

Paiement par les consommateurs déterminés

13 (1) Sur réception d'une facture d'un vendeur d'électricité qui inclut un montant au titre de l'ajustement pour l'énergie propre, le consommateur déterminé paie ce montant au vendeur d'électricité à titre de mandataire des détenteurs d'une participation d'investissement.

Idem

(2) Il est entendu que le paragraphe (1) s'applique sans égard au fait qu'une estimation, une projection ou un autre facteur utilisé pour calculer l'ajustement pour l'énergie propre était erroné ou périmé au moment du calcul, et sans égard au fait que l'estimation, la projection ou le facteur est modifié, mis à jour ou rectifié par la suite.

Modalités

(3) Le paiement est effectué conformément aux modalités de paiement précisées sur la facture, y compris celles qui se rapportent aux frais de paiement tardif et aux frais d'intérêt.

Dette du consommateur déterminé

(4) Toute somme impayée qu'un consommateur déterminé est tenu de payer en application du présent article constitue une dette du consommateur envers tous les détenteurs d'une participation d'investissement dans la mesure de leurs intérêts respectifs sur l'actif d'investissement.

Idem

(5) La dette visée au paragraphe (4) constitue une obligation financière distincte du consommateur déterminé et peut être recouvrée indépendamment de ses autres dettes ou obligations de paiement.

Activités liées aux compteurs divisionnaires d'unité

(6) Le consommateur déterminé qui fournit de l'électricité par l'exercice d'activités liées aux compteurs divisionnaires d'unité peut, conformément aux règlements, percevoir des sommes au titre de l'ajustement pour l'énergie propre à payer en application du présent article.

Caractère irrévocable du montant

14 (1) Tout montant se rapportant à l'ajustement pour l'énergie propre indiqué sur une facture émise à un consommateur déterminé en application de la présente loi est déterminant quant au montant de la dette du consommateur résultant de cet ajustement. Le montant est irrévocable dès la facturation du consommateur et ne peut ni faire l'objet de déductions compensatoires ni être évité.

Exception

(2) Le paragraphe (1) ne s'applique pas dans la mesure où la facture comporte une erreur d'écriture ou de calcul ou une faute de frappe.

Établissement de l'ajustement pour l'énergie propre**Ajustement établi par le gestionnaire des services financiers**

15 (1) Le gestionnaire des services financiers établit l'ajustement pour l'énergie propre à payer par tous les consommateurs déterminés à l'égard de chaque mois dans une période de référence en suivant les étapes suivantes :

1. Calculer le total de ce qui suit :
 - i. Le montant de financement estimatif pour la période de référence.
 - ii. Le montant d'égalisation pour la période de référence.
2. Diviser le total obtenu en application de la disposition 1 par le nombre de mois que comporte la période de référence.

Règlements sur le montant d'égalisation

(2) Lorsqu'il prend des règlements concernant l'établissement du montant d'égalisation, le lieutenant-gouverneur en conseil tient compte des principes suivants :

1. Le montant d'égalisation doit servir à faire en sorte que l'ajustement pour l'énergie propre perçu suffise à payer le montant de financement lorsqu'il est dû.
2. La méthode d'établissement du montant d'égalisation doit tenir compte des facteurs historiques et raisonnablement prévisibles suivants :
 - i. les différences entre le montant de financement estimatif et réel pour la période de référence applicable.
 - ii. les différences entre les sommes facturées et les sommes perçues en raison de divers facteurs, dont les taxes applicables, les défauts et retards de paiement des consommateurs, les décalages de facturation et les radiations.
 - iii. les variations de facturation causées par les fluctuations de consommation d'électricité.

Avis du gestionnaire des services financiers à la Commission

(3) Le gestionnaire des services financiers avise la Commission, conformément aux règlements, de l'ajustement pour l'énergie propre à l'égard d'une période de référence et lui communique tout autre renseignement prescrit qui a trait à l'établissement de l'ajustement.

Tarifs établis par la Commission

(4) Sans changer l'ajustement pour l'énergie propre, la Commission établit, conformément aux règlements, le tarif auquel les consommateurs déterminés sont facturés pour le recouvrement de l'ajustement à l'égard d'une période de référence.

Montants reçus par la SIERE

16 (1) À titre de mandataire des détenteurs d'une participation d'investissement, la SIERE reçoit les sommes que lui paient les vendeurs d'électricité au titre de l'ajustement pour l'énergie propre conformément aux règles du marché établies en vertu de l'article 32 de la *Loi de 1998 sur l'électricité* ou aux règlements.

Compte

(2) Jusqu'à leur versement aux détenteurs d'une participation d'investissement ou à leur profit conformément au paragraphe (4), toutes les sommes suivantes que reçoit la SIERE sont déposées promptement dans un compte créé pour les recevoir :

1. Les sommes visées au paragraphe (1).
2. Les paiements que les consommateurs déterminés ont faits directement à la SIERE à titre de vendeur d'électricité en application du paragraphe 13 (1).
3. Tout produit des sommes et paiements visés aux dispositions 1 et 2.

Idem : sommes détenues en fiducie

(3) Jusqu'à leur versement aux détenteurs d'une participation d'investissement ou à leur profit, toutes les sommes que reçoit la SIERE au titre de l'ajustement pour l'énergie propre sont détenues en fiducie par la SIERE pour ces détenteurs.

Versement par la SIERE

(4) La SIERE verse les sommes qu'elle a reçues au titre de l'ajustement pour l'énergie propre, y compris les intérêts rapportés par les montants visés au paragraphe (1), aux détenteurs d'une participation d'investissement ou à leur profit conformément aux règlements.

Facturation des consommateurs déterminés par le vendeur d'électricité

17 (1) Chaque vendeur d'électricité émet à chacun de ses clients qui est un consommateur déterminé une facture pour la somme que ce dernier doit payer au titre de l'ajustement pour l'énergie propre, établi par application du tarif fixe par la Commission en application du paragraphe 15 (4) et conformément aux règlements.

Information à fournir par le vendeur d'électricité

(2) Chaque vendeur d'électricité communique promptement à la SIERE, conformément aux règlements, le total facturé à ses clients qui sont des consommateurs déterminés au titre de l'ajustement pour l'énergie propre, le montant perçu et les autres renseignements prescrits.

Perception par le vendeur d'électricité

(3) À titre de mandataire des détenteurs d'une participation d'investissement, chaque vendeur d'électricité perçoit, conformément aux règlements, les sommes se rapportant à l'ajustement pour l'énergie propre auprès des consommateurs déterminés.

Paielements au pro rata

(4) Si un vendeur d'électricité reçoit un paiement effectué par un consommateur déterminé ou pour son compte à l'égard des sommes exigibles aux termes d'une ou de plusieurs factures et que la somme payée est inférieure au total exigible, le vendeur d'électricité affecte le paiement au pro rata à l'ajustement pour l'énergie propre et aux autres sommes exigibles aux termes des factures en question au titre des frais d'électricité pour la même période de facturation.

Sommes détenues en fiducie

(5) Jusqu'à leur versement à la SIERE au profit des détenteurs d'une participation d'investissement conformément au paragraphe (6), les paiements que les vendeurs d'électricité reçoivent au titre de l'ajustement pour l'énergie propre de consommateurs déterminés ou pour leur compte, ainsi que tous les produits de ces paiements, sont détenus en fiducie par chaque vendeur d'électricité au profit des détenteurs d'une participation d'investissement.

Versement à la SIERE

(6) Chaque vendeur d'électricité verse à la SIERE les sommes se rapportant à l'ajustement pour l'énergie propre au profit des détenteurs d'une participation d'investissement conformément aux règlements.

**PARTIE IV
MISE EN OEUVRE****GESTIONNAIRE DES SERVICES FINANCIERS****Nomination**

18 Ontario Power Generation Inc. est nommée gestionnaire des services financiers pour l'application de la présente loi, à moins de ne pas pouvoir ou de ne pas vouloir agir à ce titre, auquel cas le ministre peut nommer un autre gestionnaire des services financiers à sa place conformément aux règlements.

Fonctions et pouvoirs

19 (1) Le gestionnaire des services financiers exerce les fonctions que lui attribue la présente loi et peut gérer l'actif d'investissement pour le compte des détenteurs d'une participation d'investissement.

Idem

(2) La gestion de l'actif d'investissement peut comporter la communication à la SIERE de renseignements concernant les obligations prévues à la partie III et les autres activités prescrites.

Droits

(3) Sous réserve des restrictions prescrites, le gestionnaire des services financiers peut établir et exiger des droits à l'égard des questions prescrites. Il le fait conformément aux règlements, lesquels peuvent prévoir le pouvoir de recouvrer les coûts et dépenses et d'obtenir un rendement.

Idem : approbation par la Commission

(4) Avant d'établir des droits en vertu du paragraphe (3), le gestionnaire des services financiers les soumet à l'approbation de la Commission conformément aux règlements.

MONTANT DE RÉPARTITION ÉQUITABLE**Calcul par le ministre**

20 (1) Avant que la première obligation de financement ne soit contractée, le ministre calcule un montant de répartition équitable pour chaque période de référence comme suit :

- i. Établir, conformément aux étapes suivantes et aux règlements et en appliquant la méthode que le ministre estime appropriée, les coûts de l'énergie propre estimatifs à répartir entre les consommateurs déterminés pour la période de référence :
 - i. Établir les coûts de l'énergie propre engagés ou qu'il est prévu d'engager pour toutes les périodes de référence.
 - ii. Établir les avantages de l'énergie propre :

- A. pour toutes les périodes de référence,
 - B. pour la période prescrite qui a précédé la première période de référence et au cours de laquelle les coûts de l'énergie propre ont été engagés.
- iii. Attribuer la valeur des avantages de l'énergie propre établis en application de la sous-disposition ii sur les périodes de référence et la période décrite à la sous-sous-disposition ii B.
 - iv. Répartir les coûts de l'énergie propre établis en application de la sous-disposition i proportionnellement aux attributions relatives des avantages de l'énergie propre établis en application de la sous-disposition ii pour les périodes de référence.
- 2. Sous réserve du paragraphe (2), établir, conformément aux règlements et en appliquant la méthode que le ministre estime appropriée, les coûts de financement estimatifs, constitués des types de coûts prescrits, pour la période de référence.
 - 3. Établir, conformément aux règlements et en appliquant la méthode que le ministre estime appropriée, les coûts de l'énergie propre estimatifs que les consommateurs déterminés auraient eu à payer pour la période de référence en l'absence de la présente loi.
 - 4. Établir tout excédent du total des montants établis en application des disposition 1 et 2 sur les coûts établis en application de la disposition 3.
 - 5. Faire le total de l'excédent établi en application de la disposition 4 et des autres montants prescrits pour la période de référence.

Ajustements prévus à la partie II

(2) Si la Commission a pris une décision en application de l'article 9 ou 11 à l'égard de la période de référence ou d'une période de référence antérieure et que les circonstances prescrites se produisent par suite de cette décision, le ministre prend les mesures prescrites pour faire les ajustements prescrits au montant établi en application de la disposition 2 du paragraphe (1).

Questions dont tient compte le ministre

(3) Lorsqu'il calcule le montant de répartition équitable, le ministre tient compte des objets de la présente loi et des autres questions prescrites.

Ministre tenu d'informer le gestionnaire des services financiers

(4) Le ministre communique au gestionnaire des services financiers le montant de répartition équitable pour chaque période de référence.

Modification du calcul

(5) Le calcul du montant de répartition équitable visé par la présente partie peut être modifié par la personne prescrite, sous réserve des exigences suivantes :

- 1. La personne prescrite doit de se conformer aux exigences prescrites.
- 2. Les paragraphes (1), (2) et (3) s'appliquent au nouveau calcul, avec les adaptations nécessaires, comme si cette personne était le ministre.

Idem

(6) Aucune modification faite en vertu du paragraphe (5) n'a d'incidence sur un ajustement pour l'énergie propre qui résulte d'une obligation de financement contractée avant la modification.

Renseignements

(7) Le ministre, la SHRF, le gestionnaire des services financiers, la Commission et les vendeurs d'électricité fournissent, conformément aux règlements, les renseignements prescrits afin de faciliter la modification visée au paragraphe (5).

PLAN DE FINANCEMENT

Plan de financement préparé par le gestionnaire des services financiers

21 (1) Le gestionnaire des services financiers prépare un plan écrit, appelé Plan de financement, qui lui sert à déterminer si des obligations de financement éventuelles doivent être contractées pour qu'une entité de financement puisse acquérir et financer un actif d'investissement conformément à la présente loi ou pour un refinancement.

Plan à communiquer au ministre

(2) Le gestionnaire des services financiers communique le Plan de financement au ministre.

Principes

(3) Lorsqu'il prépare le Plan de financement, le gestionnaire des services financiers tient compte des principes suivants :

1. Les obligations de financement doivent être contractées de sorte que, compte tenu de celles qui le sont déjà, le montant de financement estimatif qui deviendrait exigible, sous réserve d'un refinancement, au cours d'une période de référence concorderait raisonnablement avec le montant de répartition équitable établi pour cette période, dans chaque cas après réduction du montant de répartition équitable par soustraction du montant de rajustement, s'il y en a un, pour cette période.
2. Les contractions d'obligations de financement doivent s'effectuer d'une manière qui, de l'avis du gestionnaire des services financiers, est raisonnable et rentable et qui tient compte des conditions du marché.
3. Des hypothèses raisonnables doivent être posées en ce qui concerne les questions prescrites.
4. Les autres principes prescrits.

Restriction

(4) À l'égard de chaque période de référence qui se situe entre le 1^{er} juillet 2017 et le 30 avril 2021, il ne peut être contracté d'obligation de financement donnant lieu à des sommes exigibles au titre de l'ajustement pour l'énergie propre à l'égard de la période de référence que si, selon le cas :

- a) les sommes sont exigibles à l'égard d'une période de référence pour laquelle il n'y a pas de montant de rajustement;
- b) s'il y a un montant de rajustement pour la période de référence, les sommes exigibles au titre de l'ajustement pour l'énergie propre à l'égard de cette période ne dépassent pas le montant de répartition équitable pour cette période après soustraction du montant de rajustement.

Autres rapports et renseignements

(5) Le gestionnaire des services financiers communique périodiquement au ministre les rapports et renseignements qu'exige ce dernier et, à la demande du ministre, il examine toute question se rapportant au Plan de financement et présente un rapport et offre des conseils sur cette question.

Modification du Plan

(6) Le gestionnaire des services financiers peut à tout moment modifier le Plan de financement. Toutefois, la modification n'a aucune incidence sur un ajustement pour l'énergie propre déjà établi en application de l'article 15, ni sur les obligations de financement contractées avant la modification.

Idem

(7) En cas de modification du Plan de financement, toute mention de celui-ci dans la présente loi vaut mention du plan modifié.

Montant de rajustement

(8) La définition qui suit s'applique au présent article.

«montant de rajustement» S'entend au sens des règlements.

Contraction des obligations de financement

22 (1) Le gestionnaire des services financiers veille à ce que les obligations de financement contractées pour l'application de la présente loi le soient d'une manière compatible avec le Plan de financement applicable.

Entités de financement

(2) Conformément au Plan de financement, le gestionnaire des services financiers peut créer ou faire créer une ou plusieurs entités de financement qui peuvent contracter des obligations de financement.

Interdiction

(3) Ni le gestionnaire des services financiers ni une entité de financement ne doivent prévoir que des obligations de financement soient contractées avec recours sur les actifs d'un vendeur d'électricité, de la Commission, d'Ontario Power Generation Inc., de la province ou du lieutenant-gouverneur en conseil, sauf dans la mesure où l'une ou l'autre de ces personnes ou entités peut être tenue de s'acquitter d'obligations ou de fonctions prévues par la présente loi ou par les termes exprès d'une obligation de financement ou d'un autre accord.

Effet de la modification du montant de répartition équitable

(4) Chaque obligation de financement contractée et chaque transfert effectué par une entité de financement sont réputés conformes au Plan de financement et sont réputés assurer une concordance raisonnable entre le montant de financement estimatif et le montant de répartition équitable.

Idem

(5) Il est entendu que le paragraphe (4) s'applique même si le gestionnaire des services financiers ne se conforme pas au paragraphe (1).

**PARTIE V
ACTIF RÉGLEMENTAIRE****Report de la SIERE**

23 (1) Le report de la SIERE pour chaque mois, à compter du 1^{er} mai 2017, est établi par la SIERE conformément aux règlements.

Idem : montants rétroactifs

(2) Il est entendu que les règlements peuvent prévoir que le report de la SIERE prenne en compte des montants engagés par cette dernière le 1^{er} mai 2017 ou après cette date, mais avant l'entrée en vigueur du présent article.

Renseignements fournis par les vendeurs d'électricité

(3) Les vendeurs d'électricité fournissent à la SIERE les renseignements qu'elle peut raisonnablement demander en vue d'établir le report de la SIERE en application du paragraphe (1), ainsi que tout complément d'information prescrit.

Idem

(4) La SIERE peut se fier aux renseignements fournis par les vendeurs d'électricité pour établir le report visé au paragraphe (1).

Création et tenue d'un compte d'écart

24 (1) La SIERE crée et tient un compte d'écart dans lequel elle inscrit ce qui suit :

1. Le report de la SIERE pour chaque mois.
2. Tous les paiements reçus par la SIERE par suite de l'exercice du droit de recouvrement prévu à l'article 25 et de tout transfert effectué en vertu de l'article 26.
3. Les autres ajustements prescrits, y compris ceux qui se rapportent à la période qui commence le 1^{er} mai 2017 ou après cette date, mais avant l'entrée en vigueur du présent article.

Inscription déterminante

(2) Sous réserve de la correction par la SIERE de toute erreur évidente, son inscription du solde du compte d'écart est déterminante quant au solde au moment de l'inscription.

Droits des détenteurs d'une participation d'investissement

(3) Si le détenteur d'une participation d'investissement s'est fié au solde du compte d'écart dans le contexte d'un transfert effectué en vertu de l'article 26, la modification subséquente du solde par la SIERE n'a aucune incidence sur les droits acquis par ce détenteur dans le cadre du transfert.

Création de l'actif réglementaire

25 (1) À compter du 1^{er} mai 2017, la SIERE a le droit de recouvrer le solde inscrit dans le compte d'écart auprès des consommateurs déterminés. Elle peut exercer ce droit conformément à la présente loi et aux règlements.

Tarifs fixés par la Commission

(2) Sous réserve du paragraphe (3), la Commission établit et fixe, périodiquement et conformément aux règlements, les tarifs à payer par les consommateurs déterminés afin que la SIERE puisse recouvrer le solde inscrit dans le compte d'écart.

Restriction

(3) La SIERE n'a pas le droit de percevoir tout ou partie du solde inscrit dans le compte d'écart auprès des consommateurs déterminés avant le 1^{er} mai 2021.

Transfert de l'actif réglementaire

26 (1) La SIERE peut périodiquement, conformément à la présente loi et aux règlements, transférer une partie déterminée de l'actif réglementaire à une entité de financement conformément au présent article.

Accord

(2) Tout accord conclu par la SIERE et une entité de financement relativement au transfert d'une partie déterminée de l'actif réglementaire doit prévoir une contrepartie, versée par l'entité à la SIERE, qui équivaut à la partie déterminée.

Effet du paiement

(3) Sur réception par la SIERE du paiement de l'entité de financement :

- a) le solde du compte d'écart est réduit d'un montant égal au paiement;
- b) l'actif réglementaire est ajusté en fonction du paiement;
- c) l'entité de financement acquiert une participation d'investissement correspondante;
- d) la SIERE ne conserve plus de droit, titre ou intérêt sur la participation d'investissement correspondante.

Validité du transfert

27 (1) Le transfert d'une partie déterminée de l'actif réglementaire en vertu de l'article 26 constitue une cession, un transport et une vente absolus, valides et exécutoires de la participation d'investissement correspondante au destinataire du transfert.

Idem

(2) Sans préjudice de la portée générale du paragraphe (1), tout accord de transfert qui énonce l'intention des parties que la SIERE aliène une partie déterminée de l'actif réglementaire et qu'elle cède, transporte ou vende une participation d'investissement correspondante est traitée à toutes fins comme une cession, un transport, une aliénation et une vente absolus du droit de la SIERE de recouvrer la somme correspondante comptabilisée dans le compte d'écart, et non comme une simple sûreté.

Opposabilité

(3) Au moment où l'actif réglementaire est transféré en vertu de l'article 26, le transfert est réputé avoir été rendu opposable, acquis, valide et exécutoire, et il l'est, à l'encontre de l'auteur du transfert et des autres personnes fondées à faire des réclamations contre lui.

Priorité du transfert

(4) Le paragraphe (3) s'applique que les personnes fondées à faire des réclamations aient ou non reçu avis du transfert. Les droits de propriété et intérêts acquis par le destinataire du transfert ont priorité sur les privilèges en faveur de ces personnes.

PARTIE VI ACTIF D'INVESTISSEMENT

Création de l'actif d'investissement

28 (1) Le transfert d'une partie déterminée de l'actif réglementaire en vertu de l'article 26 crée un actif d'investissement ou, s'il ne s'agit pas du premier transfert, ajoute à l'actif d'investissement.

Idem

(2) Au transfert d'une partie déterminée de l'actif réglementaire en vertu de l'article 26 à une entité de financement, l'actif d'investissement qui en résulte est immédiatement dévolu à l'entité de financement, libre et quitte de toute opposition.

Actif d'investissement : droits et intérêts irrévocables

29 (1) L'actif d'investissement constitue un droit de propriété et un intérêt courants et irrévocables constitués, collectivement, des droits et intérêts suivants des détenteurs d'une participation d'investissement :

1. Le droit d'imposer, de facturer, de percevoir, de recevoir et de recouvrer l'ajustement pour l'énergie propre auprès des consommateurs déterminés, et l'intérêt correspondant, y compris le droit d'établir cet ajustement conformément à la présente loi.
2. Le droit de recevoir, de percevoir et de recouvrer l'ajustement pour l'énergie propre qui est imposé, facturé et recouvrable aux termes de la présente loi, y compris les sommes se rapportant à cet ajustement qui sont détenues par des vendeurs d'électricité, par la SIERE, et par d'autres parties prescrites.
3. Tous les droits et privilèges prévus par les comptes prescrits par règlement et toutes les sommes en dépôt dans ces comptes.
4. Le droit d'assurer l'exécution des obligations que chaque vendeur d'électricité a, aux termes de la présente loi, d'imposer, d'attribuer, d'exiger et de facturer l'ajustement pour l'énergie propre.
5. Le droit d'assurer l'exécution des obligations que chaque vendeur d'électricité et la SIERE ont, aux termes de la présente loi, de percevoir, de recevoir et de verser les sommes qu'ils reçoivent au titre de l'ajustement pour l'énergie propre, y compris toutes les perceptions et les produits résultant des mesures d'exécution prises par un vendeur d'électricité afin de recouvrer le paiement de cet ajustement.
6. Tous les droits de toute nature se rapportant aux autres droits de propriété ou intérêts qui constituent la participation d'investissement, y compris tout droit à des remboursements de financement.
7. Tous les revenus, perceptions, réclamations, paiements, fonds et produits liés aux droits visés aux dispositions 1 à 6 ou dérivés de ceux-ci, indépendamment du fait qu'ils sont ou non facturés, perçus et maintenus avec d'autres revenus, perceptions, créances, paiements, fonds et produits ou amalgamés avec ceux-ci.

Omission sans incidence sur la participation

(2) Le fait de ne pas imposer, attribuer, facturer, comptabiliser ou percevoir des sommes au titre de l'ajustement pour l'énergie propre n'a aucune incidence sur la participation d'investissement.

Aucune déduction compensatoire

(3) L'actif d'investissement ne doit pas faire l'objet de déductions compensatoires :

- a) par un consommateur, un vendeur d'électricité, la SIÈRE, le mandataire des détenteurs d'une participation d'investissement ou le propriétaire, dans la province, d'un réseau de distribution au sens de la *Loi de 1998 sur l'électricité*;
- b) relativement au manquement d'une personne mentionnée à l'alinéa a);
- c) par un membre du même groupe qu'une personne mentionnée à l'alinéa a) ou une personne ou entité qui la remplace.

Exercice des droits

(4) Les droits des détenteurs d'une participation d'investissement de percevoir l'ajustement pour l'énergie propre et de faire valoir, à l'encontre d'un consommateur déterminé, leurs droits et intérêts sur l'actif d'investissement ou à son égard, sont exercés conformément à la partie III de la présente loi.

Action collective requise

(5) Si le détenteur d'une participation d'investissement est propriétaire d'un droit ou d'un intérêt sur l'actif d'investissement comprenant moins de la totalité du droit de propriété et de l'intérêt qui constituent cet actif, le détenteur d'une participation d'investissement ne peut faire valoir son droit ou son intérêt que collectivement et en coordination avec tous les autres détenteurs d'une participation d'investissement. Tout accord conclu par ce groupe qui vise à donner suite à l'action collective est valide et lie les détenteurs d'une participation d'investissement collectivement, conformément à ses conditions.

Transfert d'une participation d'investissement

30 Le détenteur d'une participation d'investissement peut transférer tout ou partie de celle-ci à un autre détenteur d'une participation d'investissement, notamment en transférant un intérêt divis ou indivis, conformément au Plan de financement.

Validité du transfert

31 (1) Le transfert d'une participation d'investissement aux termes de la présente loi constitue une vente et un transfert absolu de la participation d'investissement valides et exécutoires. Il confère à son destinataire un droit de propriété valide sur la participation d'investissement acquise et un intérêt valide sur celle-ci et à son égard, conformément aux conditions du transfert.

Idem

(2) Sans préjudice de la portée générale du paragraphe (1), le transfert qui, par ses conditions, est censé constituer une vente ou un transfert absolu est traité à toutes fins comme un transfert absolu du droit et du titre du détenteur d'une participation d'investissement sur cette participation et de son intérêt sur celle-ci ou à son égard, et non comme simple sûreté. Lors de ce transfert absolu, l'auteur du transfert ne conserve aucun droit, titre ou intérêt sur la participation d'investissement visée par le transfert, y compris tous les droits à cette participation qui surviennent après le transfert.

Opposabilité

(3) Au moment où s'effectue le transfert d'une participation d'investissement, le transfert est réputé avoir été rendu opposable conformément à la *Loi sur les sûretés mobilières*, dévolu, valide et exécutoire, et il l'est, à l'encontre de l'auteur du transfert et des autres personnes fondées à faire des réclamations contre lui.

Priorité du transfert

(4) Le paragraphe (3) s'applique que les personnes fondées à faire des réclamations aient ou non reçu avis du transfert. Les droits de propriété et intérêts acquis par le détenteur d'une participation d'investissement ont priorité sur les privilèges en faveur de ces personnes.

Sûreté accordée par le détenteur d'une participation d'investissement

32 (1) Le détenteur d'une participation d'investissement peut accorder à toute personne ou en faveur de celle-ci une sûreté sur la totalité ou une partie déterminée de son droit, de son titre et de son intérêt sur la participation d'investissement et à son égard afin de garantir une obligation de financement.

Validité

(2) Les sûretés accordées en vertu de la présente loi sont valides et exécutoires conformément à leurs conditions.

Opposabilité et priorité des sûretés

(3) Sauf disposition contraire du présent article, toutes les dispositions de la *Loi sur les sûretés mobilières* s'appliquent à l'actif d'investissement et à chaque participation d'investissement pour le motif que ce sont des biens meubles incorporels.

L'octroi d'une sûreté par le détenteur d'une participation d'investissement afin de garantir une obligation de financement donne lieu à une sûreté visée par cette loi, sous réserve des conditions de cette obligation. La sûreté peut être rendue opposable par l'enregistrement d'un état de financement en application de cette loi pour ce motif.

Produits

(4) Tous les produits d'une participation d'investissement qui sont grevés de la sûreté et qui sont reçus par le détenteur de la participation d'investissement sont immédiatement grevés de la sûreté et sont rendus opposables sans livraison matérielle des produits, enregistrement d'un état de financement ou autre action.

Opposabilité

(5) La sûreté est opposable sans interruption et a priorité sur tout autre privilège, créé par l'application de la loi ou d'une autre manière, qui pourrait par la suite grever les droits de propriété et intérêts sur la participation d'investissement grevée de la sûreté, sauf consentement écrit à l'effet contraire de la personne à qui la sûreté a été accordée.

Idem

(6) La personne à qui la sûreté a été accordée a une sûreté opposable sur les revenus ou autres produits qui sont déposés dans tout compte d'un vendeur d'électricité, d'un mandataire de ce dernier ou d'une autre personne qui a pu amalgamer ces revenus ou produits avec d'autres fonds.

Avis requis

(7) Le créancier garanti n'a le droit d'exercer les droits du détenteur d'une participation d'investissement qu'après avoir donné avis à la SIERE de l'exécution de sa sûreté.

Interprétation

(8) Pour l'application du présent article, une sûreté est rendue opposable lorsqu'elle est rendue opposable comme le prévoit la *Loi sur les sûretés mobilières*.

PARTIE VII DISPOSITIONS DIVERSES

Nomination d'un mandataire : facturation ou perception

33 (1) Si une circonstance prescrite s'applique, le lieutenant-gouverneur en conseil peut, par règlement, nommer une personne chargée de s'acquitter à la place d'un vendeur d'électricité de tout ou partie des obligations que la présente loi impose à ce dernier en matière de facturation ou de perception.

Idem : non un mandataire de la Couronne

(2) Malgré la *Loi sur les organismes de la Couronne*, il est entendu qu'une personne nommée en vertu du présent article n'est à aucune fin un mandataire de la Couronne.

Autorité de la Commission

34 (1) Chaque vendeur d'électricité, la SIERE et le gestionnaire des services financiers tiennent les comptes que la Commission exige et lui fournissent les renseignements qu'elle exige afin d'exercer les responsabilités que lui impose la présente loi, sous la forme, de la manière et dans le délai qu'exige la Commission.

Aucune audience requise

(2) Malgré toute disposition contraire de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, la Commission peut exercer les responsabilités que lui impose la présente loi sans tenir d'audience.

Mise sous séquestre judiciaire

35 (1) Tout tribunal de la province peut, à la demande du détenteur d'une participation d'investissement ou d'un créancier garanti, ordonner la mise sous séquestre judiciaire et le paiement de sommes d'argent au titre de l'ajustement pour l'énergie propre, de perceptions ou de versements, selon le cas, au profit du détenteur de la participation d'investissement ou du créancier garanti par toute personne ou entité autorisée à percevoir de telles sommes.

Idem

(2) L'ordonnance rendue en vertu du paragraphe (1) ne restreint pas les autres recours dont peut se prévaloir le demandeur.

Choix du droit

36 Le droit régissant la validité, l'application, le grèvement, l'opposabilité, la priorité et l'exercice de recours, selon le cas, à l'égard d'un transfert effectué en vertu de la présente loi ou de la création d'une sûreté sur l'actif réglementaire, l'actif d'investissement, l'ajustement pour l'énergie propre ou l'engagement de la Couronne visé à l'article 5 est constitué des règles de droit de la province.

Incompatibilité

37 Les dispositions de la présente loi et des règlements s'appliquent malgré toute disposition d'une autre loi concernant le grevement, la cession ou l'opposabilité d'un transfert ou d'une sûreté, ou l'effet de son opposabilité ou de sa priorité.

Aucune approbation supplémentaire

38 Malgré toute exigence d'une loi, nuls avis, approbations ou autorisations autres que ceux précisés dans la présente loi ne sont exigés aux termes du Plan de financement ou relativement au calcul du montant de répartition équitable.

Immunité

39 (1) Sont irrecevables les actions ou autres instances civiles introduites contre un employé de la province ou d'Ontario Power Generation Inc. pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel d'un pouvoir ou d'une fonction que lui attribuent la présente loi ou les règlements, ou pour une négligence ou un manquement qu'il aurait commis dans l'exercice de bonne foi d'un tel pouvoir ou d'une telle fonction.

Idem

(2) Le paragraphe (1) ne doit pas être interprété comme restreignant l'effet du paragraphe 19 (1) de la *Loi de 1998 sur l'électricité* ou du paragraphe 11 (1) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*.

Idem

(3) Malgré les paragraphes 5 (2) et (4) de la *Loi sur les instances introduites contre la Couronne*, le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par une personne visée à ce paragraphe.

Mentions dans le matériel de publicité et les notices d'offre

40 Nul ne doit, dans le matériel de publicité ou les notices d'offre ayant trait au financement des obligations de financement, faire mention de droits, obligations, garanties ou engagements découlant de l'article 5 sans qu'il soit satisfait aux exigences prescrites.

Ordonnances de conformité et ordonnances de ne pas faire**Requête en justice**

41 (1) Sur requête du détenteur d'une participation d'investissement, la Cour supérieure de justice peut rendre une ordonnance visée au paragraphe (2) si elle est convaincue qu'un vendeur d'électricité, la SIERE ou le gestionnaire des services financiers ne s'est pas conformé ou a contrevenu à la présente loi ou aux règlements, ou que l'une ou l'autre de ces entités ne s'y conformera pas ou y contreviendra à l'avenir.

Ordonnance

(2) La Cour supérieure de justice peut, par ordonnance :

- a) enjoindre au vendeur d'électricité, à la SIERE ou au gestionnaire des services financiers de se conformer à la présente loi ou aux règlements;
- b) enjoindre au vendeur d'électricité, à la SIERE ou au gestionnaire des services financiers de ne pas contrevenir à la présente loi ou aux règlements;
- c) exiger le dédommagement du détenteur d'une participation d'investissement par le vendeur d'électricité, la SIERE ou le gestionnaire des services financiers.

Idem

(3) La requête que peut présenter le détenteur d'une participation d'investissement en vertu du paragraphe (1) s'ajoute à l'exercice de tout autre droit de celui-ci.

Règlements

42 (1) Le lieutenant-gouverneur en conseil peut, par règlement :

- 1 Régir tout ce qui doit ou peut être prescrit ou fait par règlement ou conformément aux règlements ou comme ceux-ci l'autorisent, le précisent ou le prévoient.
- 2 Définir, pour l'application d'un règlement, les termes employés mais non définis dans la présente loi.
- 3 Régir la contraction d'une dette pour l'application de la définition de «refinancement» au paragraphe 1 (1).
- 4 Régir les renseignements visés par la présente loi à inclure dans les factures ou à y joindre, notamment exiger que les vendeurs d'électricité donnent avis des ajustements aux consommateurs déterminés et aux autres personnes prescrites, y compris prévoir des exigences différentes selon les circonstances et selon les catégories de consommateurs déterminés.

5. Régir les renseignements concernant l'ajustement pour l'énergie propre et d'autres questions prévues par la présente loi à inclure dans les factures émises aux consommateurs déterminés ou à y joindre, notamment la forme sous laquelle doivent se présenter les renseignements, les factures et tout avis à donner à ces consommateurs en application de la présente loi.
6. Régir la manière dont les factures ou avis prévus par la présente loi doivent être fournis aux consommateurs déterminés et aux autres personnes prescrites.
7. Prévoir un droit à dédommagement pour les détenteurs d'une participation d'investissement touchés par le fait qu'une personne ou une entité n'a pas donné effet aux droits et intérêts prévus à l'article 29 et la manière dont ce droit peut être exercé conformément à la présente loi.
8. Prescrire le délai dans lequel toute mesure exigée par la présente loi doit être prise.
9. Prévoir toute autre question que le lieutenant-gouverneur en conseil estime souhaitable pour réaliser l'objet de la présente loi.

Restriction

(2) Malgré le paragraphe (1) ou toute autre loi, aucun règlement pris en vertu de la présente loi n'a pour effet de réduire, de restreindre ou de différer les obligations des consommateurs déterminés de payer les sommes se rapportant à l'ajustement pour l'énergie propre ou de mettre fin à ces obligations, ni de restreindre ou de différer la facturation, la perception, le versement ou le recouvrement de cet ajustement.

PARTIE VIII MODIFICATIONS D'AUTRES LOIS

Loi de 1998 sur l'électricité

43 (1) Le paragraphe 6 (1) de la Loi de 1998 sur l'électricité est modifié par adjonction de l'alinéa suivant :

- q.1) exercer les pouvoirs, droits et fonctions et s'acquitter des obligations que lui confère la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables* et exercer des activités facilitant la mise en oeuvre de cette loi, notamment :
 - (i) conclure des accords ou des arrangements avec toute personne pour l'application de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*,
 - (ii) exercer des activités se rapportant aux paiements à effectuer ou à recevoir conformément à la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*, ainsi que les activités connexes de règlement des différends,
 - (iii) exercer des activités se rapportant au transfert et à la gestion de l'actif réglementaire créé en application de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*, notamment les activités suivantes :
 - (A) contracter des dettes relativement à l'actif réglementaire,
 - (B) transférer l'actif réglementaire en vertu de l'article 26 de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables* moyennant contrepartie,
 - (C) agir à titre d'agent de recouvrement en vertu de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*;

(2) Le paragraphe 25.33 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

- c) les sommes prescrites qui sont versées ou engagées par la SIERE dans le cadre de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*.

(3) Le paragraphe 25.33 (2) de la Loi est modifié par adjonction de l'alinéa suivant :

- c) les sommes prescrites qui sont versées ou engagées par la SIERE dans le cadre de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*.

(4) L'alinéa 25.33 (4) b) de la Loi est modifié par adjonction de «ou qu'exige un règlement pris en vertu de la présente loi ou de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*» à la fin de l'alinéa.

(5) Le paragraphe 25.33 (5) de la Loi est modifié par remplacement de «tous ses comptes créditeurs et débiteurs prévus au présent article» par «toutes les sommes qu'elle doit payer ou recevoir en application du présent article ou de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*» à la fin du paragraphe.

(6) L'article 53.1 de la Loi est modifié par adjonction des paragraphes suivants :

Idem : *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*

(1.1) Outre les objets mentionnés au paragraphe (1), les objets d'Ontario Power Generation Inc. comprennent l'exercice des pouvoirs, droits et fonctions et l'exécution des obligations que lui attribue la *Loi de 2017 sur le Plan ontarien pour des frais*

d'électricité équitables et l'exercice des activités qui facilitent la mise en oeuvre de cette loi, notamment la conclusion de contrats et d'engagements pour le compte des entités financières et la prestation d'autres services pour leur compte, sous réserve du droit d'être payé pour ces services par ces entités.

Filiales et autres entités

(1.2) Ontario Power Generation Inc. peut créer une ou plusieurs filiales, fiducies, sociétés en nom collectif, sociétés en commandite, ou entités ad hoc et investir dans celles-ci afin d'exercer ses activités ou de réaliser ses objets de façon plus efficace.

Éléments d'actif et de passif d'une entité qui n'est pas une filiale

(1.3) Malgré toute autre disposition de la présente loi, de la *Loi sur les sociétés par actions* ou d'une autre loi, si une entité de financement n'est pas une filiale d'Ontario Power Generation Inc. :

- a) les éléments d'actif et de passif de l'entité de financement ne font pas partie des éléments d'actif et de passif d'Ontario Power Generation Inc. ou de ses filiales;
- b) les éléments d'actif et de passif d'Ontario Power Generation Inc. ou de ses filiales ne font pas partie des éléments d'actif et de passif de l'entité de financement.

Éléments d'actif et de passif d'une filiale

(1.4) Malgré toute autre disposition de la présente loi, de la *Loi sur les sociétés par actions* ou d'une autre loi, si une entité de financement est une filiale d'Ontario Power Generation Inc. :

- a) les éléments d'actif et de passif de cette entité de financement ne font pas partie des éléments d'actif et de passif d'Ontario Power Generation Inc. ou de ses autres filiales;
- b) les éléments d'actif et de passif d'Ontario Power Generation Inc. ou de ses autres filiales ne font pas partie des éléments d'actif et de passif de cette entité de financement.

Définition : entité de financement

(1.5) Pour l'application du présent article :

«entité de financement» s'entend au sens de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*.

Loi de 1998 sur la Commission de l'énergie de l'Ontario

44 (1) Le paragraphe 70 (2.1) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* est modifié par adjonction de la disposition suivante :

4. Le titulaire doit se conformer à la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*.

(2) L'article 70 de la Loi est modifié par adjonction du paragraphe suivant :

Conditions réputées rattachées aux permis des fournisseurs de compteurs divisionnaires d'unité : *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*

(2.4) Chaque permis délivré à un fournisseur de compteurs divisionnaires d'unité est réputé contenir la condition selon laquelle le fournisseur est tenu de se conformer à la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables* et à ses règlements.

(3) L'article 78.1 de la Loi est modifié par adjonction des paragraphes suivants :

Idem : restriction applicable à Ontario Power Generation Inc.

(3) Les paiements à faire à Ontario Power Generation Inc. en application du présent article sont établis sans qu'il soit tenu compte des sommes se rapportant aux activités qu'Ontario Power Generation Inc. a exercées dans le cadre de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*.

Idem

(3.1) Les sommes visées au paragraphe (3) comprennent notamment les suivantes :

1. Les sommes se rapportant à la nomination d'Ontario Power Generation Inc. comme gestionnaire des services financiers en application de la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*.
2. Les sommes se rapportant à l'imposition de droits pour l'exercice de fonctions à titre de gestionnaire des services financiers.
3. Les sommes se rapportant à l'exercice des pouvoirs et fonctions du gestionnaire des services financiers.
4. Les sommes se rapportant à la consolidation aux fins comptables des éléments d'actif et de passif des entités de financement ad hoc créées en vertu de cette loi pour l'application de celle-ci.

(4) Le paragraphe 79.16 (3) de la Loi est abrogé.

PARTIE IX
ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ

Entrée en vigueur

45 La présente annexe entre en vigueur le jour où la *Loi de 2017 pour des frais d'électricité équitables* reçoit la sanction royale.

Titre abrégé

46 Le titre abrégé de la loi figurant à la présente annexe est *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*.

ANNEXE 2

MODIFICATIONS DE LA LOI DE 1998 SUR LA COMMISSION DE L'ÉNERGIE DE L'ONTARIO

1 (1) Le paragraphe 79 (4) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* est abrogé et remplacé par ce qui suit :

Responsabilité

(4) Tous les consommateurs sont tenus de contribuer, conformément aux règlements, au dédommagement prévu au paragraphe (3) qui n'est pas fourni par ailleurs en vertu du paragraphe (4.1).

Paiements pour certaines catégories de consommateurs

(4.1) Le dédommagement prévu au paragraphe (3) peut être fourni, de la manière prévue par règlement, à l'égard d'une ou de plusieurs catégories prescrites de consommateurs qui bénéficient de la protection des tarifs prévue au présent article.

Crédits affectés par la Législature

(4.2) Le dédommagement prévu au paragraphe (4.1) est prélevé sur les crédits affectés à cette fin par la Législature.

Renseignements

(4.3) Si les règlements comprennent une disposition en ce sens, la Commission, la SIERE et les distributeurs, ou certains d'entre eux, fournissent au ministère de l'Énergie et s'échangent les renseignements et rapports nécessaires pour faciliter la mise en œuvre, l'administration, le financement et la prestation de la protection des tarifs ou de toute autre chose prévue au présent article.

(2) L'alinéa 79 (5) e) de la *Loi* est abrogé et remplacé par ce qui suit :

8) prescrire des règles concernant les sommes qui doivent être perçues pour dédommager les distributeurs, compte tenu de tout dédommagement fourni en application du paragraphe (4.1), notamment des règles :

- (i) traitant du calcul de ces sommes,
- (ii) traitant du calcul de toute compensation de la responsabilité des consommateurs découlant du paragraphe (3) à l'égard de ces sommes,
- (iii) fixant le moment auquel elles doivent être perçues et la façon dont elles doivent l'être,
- (iv) exigeant le paiement des sommes par versements échelonnés et des intérêts ou des pénalités en cas de paiement en retard,
- (v) prescrivant des méthodes pour contrer l'évitement des sommes à payer,
- (vi) traitant de la répartition de ces sommes entre les consommateurs;

a) l'absence des catégories de consommateurs pour l'application du paragraphe (4.1) et régir de quelle façon et à quel moment le dédommagement doit être fourni à l'égard de la protection des tarifs dont ils bénéficient, et notamment exiger que la SIERE reçoive des paiements ou des sommes du ministre de l'Énergie et qu'elle fasse des paiements aux distributeurs titulaires d'un permis ou aux personnes prescrites et prescrire de quelle façon et à quel moment les paiements doivent être faits;

2 L'article 79.2 de la *Loi* est abrogé et remplacé par ce qui suit :

Aide tarifaire

79.2 (1) Le ministre prévoit une aide tarifaire à l'intention des consommateurs qui y sont admissibles compte tenu de leur situation financière et, pour ce faire, il utilise les sommes prévues au paragraphe (4).

POAFE

(2) Le programme appelé «Programme ontarien d'aide relative aux frais d'électricité» en français et «Ontario Electricity Support Program» en anglais est maintenu dans le but d'offrir une aide tarifaire à l'intention des consommateurs qui y sont admissibles compte tenu de leur situation financière.

Programme administré par la Commission

(3) Le Programme ontarien d'aide relative aux frais d'électricité est administré par la Commission ou, si les règlements le prévoient, par un ministre de la Couronne ou une autre entité prévue par règlement.

Crédits affectés par la Législature

(4) Les sommes nécessaires à l'application du Programme ontarien d'aide relative aux frais d'électricité sont prélevées sur les crédits affectés à cette fin par la Législature, une fois que les sommes inscrites au compte d'écart 150 au paragraphe (5) ne suffisent plus à elles seules à financer le programme.

Compte d'écart

(5) Les sommes nécessaires à l'application du Programme ontarien d'aide relative aux frais d'électricité proviennent du solde créditeur du compte d'écart tenu par la SIERE dans le cadre du Programme, tel qu'il existait avant l'entrée en vigueur de l'article 2 de l'annexe 2 de la *Loi de 2017 pour des frais d'électricité équitables* jusqu'à ce que les sommes inscrites au compte ne suffisent plus à elles seules à financer le programme.

Épuisement du compte d'écart

(6) La SIERE informe le ministère de l'Énergie à l'avance et en temps opportun du moment où, selon son estimation, les sommes comprises dans le compte d'écart devraient être inférieures à la somme dont elle a besoin pour s'acquitter de ses obligations liées au financement du Programme ontarien d'aide relative aux frais d'électricité pour le mois à venir.

Modalités

(7) L'aide tarifaire prévue au présent article est offerte à l'égard des consommateurs prescrits par règlement, aux moments, selon les montants et de la manière prévus par règlement.

Paielements relatifs à la consommation d'une période antérieure

(8) Les règlements peuvent exiger que l'aide tarifaire soit offerte aux catégories prescrites de consommateurs admissibles à l'aide tarifaire, à l'égard de l'électricité consommée pendant une période antérieure à la date à laquelle les règlements sont pris. Toutefois, les règlements ne peuvent exiger aucune aide tarifaire à l'égard de l'électricité consommée avant le 1^{er} janvier 2016.

Disposition transitoire

(9) Les règlements peuvent exiger que l'aide tarifaire soit offerte à un consommateur qui y est admissible à l'égard d'une période antérieure à la date à laquelle il est devenu un consommateur admissible à l'aide tarifaire s'il satisfait à toutes les conditions prévues par règlement.

Dédommagement : distributeurs et autres

(10) Les distributeurs, les fournisseurs de compteurs divisionnaires d'unité et les autres personnes ou entités prescrites ont droit à un dédommagement provenant des sommes visées au paragraphe (4) ou (5), selon le cas, pour la perte de revenus qu'ils subissent par suite de l'aide tarifaire offerte par le Programme ontarien d'aide relative aux frais d'électricité.

Conditions du permis, SIERE, règlements des différends, paiements, etc.

(11) Chaque permis délivré à la SIERE, à un distributeur, à un fournisseur de compteurs divisionnaires d'unité ou à un détaillant d'électricité est réputé assorti de conditions exigeant de son titulaire qu'il prenne toute mesure nécessaire qu'exigent les règlements ou la Commission pour mettre en oeuvre et administrer l'aide tarifaire offerte en application du présent article, notamment :

- a) effectuer des paiements à la SIERE, aux distributeurs, aux fournisseurs de compteurs divisionnaires d'unité et à d'autres personnes et entités précisées par règlement;
- b) recevoir des paiements ou d'autres sommes de la SIERE, des distributeurs, des fournisseurs de compteurs divisionnaires d'unité et d'autres personnes et entités précisées par le ministre;
- c) exiger des titulaires de permis qu'ils fassent bénéficier de l'aide tarifaire prévue au présent article les consommateurs qui y sont admissibles, et ce, de la manière prévue par règlement;
- d) exercer des activités de règlement des différends;
- e) fournir des renseignements au ministère de l'Énergie, à la Commission, à la SIERE, aux distributeurs, aux fournisseurs de compteurs divisionnaires d'unité, aux détaillants d'électricité et aux autres personnes et entités prescrites et en recevoir d'eux, de la manière et aux moments prévus par la Commission ou prescrits par règlement;
- f) conclure des ententes ou des arrangements avec des titulaires de permis et d'autres personnes.

Renseignements

(12) Si les règlements comportent une disposition en ce sens, la Commission, la SIERE, les distributeurs, les détaillants d'électricité et les fournisseurs de compteurs divisionnaires d'unité, ou certains d'entre eux, fournissent au ministère de l'Énergie et s'échangent les renseignements et rapports nécessaires pour faciliter la mise en oeuvre, l'administration, le financement et la prestation de l'aide tarifaire ou de toute autre chose exigée en application du présent article.

Incompatibilité

(13) En cas d'incompatibilité, le présent article et les règlements pris en vertu de celui-ci l'emportent sur toute ordonnance que rend la Commission, tout code qu'elle produit ou toute condition dont est assorti un permis.

Règlements

(14) Le lieutenant-gouverneur en conseil peut, par règlement, régir tout ce dont traite le présent article, et notamment :

- a) régir tout ce que le présent article mentionne comme étant prescrit ou prévu par règlement ou devant être fait conformément aux règlements;
- b) régir le ou les moments auxquels l'aide tarifaire est payée aux consommateurs qui y sont admissibles ou devient payable à ceux-ci;
- c) régir la détermination des catégories des consommateurs qui sont des consommateurs admissibles à l'aide tarifaire, et notamment prévoir des catégories différentes de consommateurs admissibles à l'aide tarifaire;
- d) exiger que certains coûts et dépenses liés au Programme ontarien d'aide relative aux frais d'électricité ne soient engagés qu'avec l'approbation préalable du ministre, et régir ces coûts et dépenses;
- e) établir les règles de calcul du montant de l'aide tarifaire à offrir;
- f) régir les paiements prévus au présent article, et notamment déterminer la ou les modes de calcul du montant de l'aide tarifaire à offrir;
- g) fixer le plafond de la valeur annuelle totale de l'aide tarifaire qui peut être offerte;
- h) exiger que des distributeurs, la SIERE, des fournisseurs de compteurs divisionnaires d'unité ou d'autres personnes ou entités prescrites effectuent ou reçoivent des paiements relatifs à l'aide tarifaire, et notamment exiger qu'ils les effectuent directement au ministre de l'Énergie ou les reçoivent directement de celui-ci ou qu'ils reçoivent des trop-perçus directement ou indirectement des consommateurs ou des autres personnes ayant droit à l'aide tarifaire, et prescrire les circonstances dans lesquelles ces paiements doivent être effectués et reçus ou ces trop-perçus doivent être reçus, ainsi que les modes de calcul des sommes à payer ou à recevoir;
- i) exiger que la SIERE reçoive des paiements du ministre et qu'elle effectue des paiements à la Commission, aux distributeurs titulaires d'un permis, aux fournisseurs de compteurs divisionnaires d'unité ou aux personnes prescrites à l'égard de l'aide tarifaire offerte en application du présent article, et prescrire les modes de calcul des sommes à payer;
- j) régir les frais administratifs et autres frais liés au programme que la Commission ou une autre entité prescrite engage pour administrer le Programme ontarien d'aide relative aux frais d'électricité;
- k) régir les questions transitoires découlant des modifications apportées au Programme ontarien d'aide relative aux frais d'électricité en raison de l'édiction de la *Loi de 2017 pour des frais d'électricité équitables*.

Rétroactivité

(15) Les règlements pris en vertu du présent article qui comportent une disposition en ce sens ont un effet rétroactif.

Application générale ou particulière

(16) Les règlements pris en vertu du présent article peuvent avoir une portée générale ou particulière, prévoir des catégories différentes de personnes et d'entités et prescrire des règles différentes pour des personnes ou entités différentes ou des catégories différentes de personnes ou d'entités.

Vérification de l'admissibilité

(17) L'article 11 de la *Loi sur le ministère du Revenu* s'applique à l'égard du Programme ontarien d'aide relative aux frais d'électricité en tant que programme d'aide gouvernementale administré par la Commission.

Définitions

(18) Les définitions qui suivent s'appliquent au présent article.

«consommateur admissible à l'aide tarifaire» Consommateur visé au paragraphe (7). («rate-assisted consumer»)

«programme d'aide gouvernementale» S'entend au sens prévu au paragraphe 11 (2) de la *Loi sur le ministère du Revenu* («Government assistance program»)

3 La Loi est modifiée par adjonction de l'article suivant :

Confidentialité et partage des renseignements

79.2.1 (1) Pour l'application de l'article 79.2, la Commission ou le ministre, ou l'entité responsable de l'administration du Programme ontarien d'aide relative aux frais d'électricité, peut conclure une entente avec le ministre des Services sociaux et communautaires afin de fournir au public, pour le compte de la Commission, du ministre ou de l'entité, selon le cas, les services mentionnés au paragraphe (2) qui se rapportent à l'administration de ce programme.

Entente

(2) Les services que peut prévoir l'entente visée au paragraphe (1) sont les suivants :

1. La fourniture de documents et de renseignements sur le Programme ontarien d'aide relative aux frais d'électricité
2. Le traitement des demandes de participation au Programme ontarien d'aide relative aux frais d'électricité.

Arrangements conclus avec d'autres parties

(3) Le ministre des Services sociaux et communautaires peut s'arranger avec une autre personne ou entité pour qu'elle fournisse pour le compte de ce ministre les services qu'il est autorisé à fournir aux termes de l'entente visée au paragraphe (1).

Renseignements personnels

(4) Le ministre des Services sociaux et communautaires est autorisé à recueillir, à utiliser, à divulguer et à conserver les renseignements personnels nécessaires pour fournir les services autorisés par l'entente visée au paragraphe (1), mais il ne doit pas en recueillir, en utiliser, en divulguer ou en conserver plus que raisonnablement nécessaire à cette fin.

Restriction

(5) À moins d'y être autorisé par ailleurs aux termes du paragraphe (7), le ministre des Services sociaux et communautaires ne doit pas recueillir, utiliser, divulguer ou conserver les renseignements personnels visés au paragraphe (4) sans le consentement du particulier qu'ils visent.

Transfert des renseignements personnels

(6) Promptement après le traitement d'une demande de participation au Programme ontarien d'aide relative aux frais d'électricité, le ministre des Services sociaux et communautaires veille à ce que les renseignements personnels d'un particulier visés au paragraphe (4) soient transférés sous le contrôle de la Commission, du ministre ou de l'entité responsable de ce programme. Il peut toutefois conserver les renseignements personnels raisonnablement nécessaires pour confirmer qu'un particulier s'est fait fournir un service.

Utilisation des renseignements personnels

(7) Le ministre des Services sociaux et communautaires peut utiliser les renseignements personnels qu'il tient à jour dans le cadre de l'administration du Programme ontarien de soutien aux personnes handicapées et du programme créé conformément à la *Loi de 1997 sur le programme Ontario au travail* afin d'identifier et de contacter les particuliers admissibles à l'aide tarifaire offerte dans le cadre du Programme ontarien d'aide relative aux frais d'électricité et de fournir les services autorisés par l'entente visée au paragraphe (1).

Utilisation réputée conforme

(8) L'utilisation de renseignements personnels de la manière permise par le paragraphe (7) est réputée conforme à l'article 41 de la *Loi sur l'accès à l'information et la protection de la vie privée*.

Divulgaration de la liste

(9) Pour aider le ministre des Services sociaux et communautaires à identifier les particuliers admissibles à l'aide tarifaire, la Commission ou le ministre, ou l'entité responsable de l'administration du Programme ontarien d'aide relative aux frais d'électricité, lui divulgue une liste des particuliers inscrits à ce programme, ainsi que leur adresse et leurs autres coordonnées, dès que matériellement possible après l'entrée en vigueur du présent article.

Utilisation de la liste

(10) Le ministre des Services sociaux et communautaires peut utiliser les renseignements figurant sur la liste fournie en application du paragraphe (9) pour établir si un particulier qui est inscrit au Programme ontarien de soutien aux personnes handicapées ou au programme créé en application de la *Loi de 1997 sur le programme Ontario au travail* est également inscrit au Programme ontarien d'aide relative aux frais d'électricité.

Destruction de la liste

(11) Le ministre des Services sociaux et communautaires détruit la liste fournie en application du paragraphe (9) au plus tard un an après l'avoir reçue.

Avis concernant la gestion des renseignements personnels

(12) Le ministre des Services sociaux et communautaires veille à ce que soit publié sur un site Web un avis précisant ce qui suit :

- a) les fins auxquelles il recueille, utilise, divulgue et conserve des renseignements personnels dans le cadre du Programme ontarien d'aide relative aux frais d'électricité;
- b) les types de renseignements personnels qui peuvent être recueillis, utilisés, divulgués et conservés dans le cadre du Programme ontarien d'aide relative aux frais d'électricité et les circonstances dans lesquelles ils peuvent être recueillis, utilisés, divulgués et conservés dans le cadre de ce programme;
- c) le titre et les coordonnées, y compris l'adresse électronique, d'un employé capable de répondre aux questions des particuliers concernant l'utilisation des renseignements personnels en vertu du présent article.

4 La Loi est modifiée par adjonction des articles suivants :

Protection contre les frais de distribution

79.3 (1) Le ministre prévoit une protection contre les frais de distribution à l'intention des consommateurs résidentiels protégés contre les frais de distribution, compte tenu des coûts de distribution à ces consommateurs de l'électricité consommée à compter de la date prescrite par règlement.

Crédits affectés par la Législature

(2) Les sommes nécessaires pour offrir la protection contre les frais de distribution prévue au présent article sont prélevées sur les crédits affectés à ces fins par la Législature.

Frais maximaux

(3) Malgré toute ordonnance de la Commission ou toute autre disposition de la présente loi, si les règlements comportent une disposition en ce sens, le distributeur prescrit qui distribue de l'électricité aux consommateurs résidentiels protégés contre les frais de distribution ne doit pas exiger de ces consommateurs, ou à des catégories prescrites de ceux-ci, des frais de distribution mensuels de base supérieurs, selon le cas :

- a) au maximum prévu par règlement à l'égard de ces frais;
- b) au montant que la Commission établit après avoir effectué les calculs et suivi les processus ou les méthodes prévus par règlement.

Distributeurs

(4) Tout distributeur prescrit en vertu du présent article a droit à un dédommagement provenant des sommes visées au paragraphe (2) pour la perte de revenus qu'il subit par suite de la protection contre les frais de distribution offerte en application du présent article aux consommateurs résidentiels protégés contre les frais de distribution.

Renseignements

(5) Si les règlements comportent une disposition en ce sens, la Commission, la SIERE et les distributeurs, ou certains d'entre eux, fournissent au ministère de l'Énergie et s'échangent les renseignements et rapports nécessaires pour faciliter la mise en œuvre, l'administration, le financement et la prestation de la protection contre les frais de distribution ou de toute autre chose exigée en application du présent article.

Paiement au consommateur de la protection contre les frais de distribution : délai de prescription

(6) Malgré tout droit antérieur d'un consommateur admissible à la protection des frais de distribution prévue au présent article, aucune protection contre les frais de distribution n'est payable à celui-ci après le délai de prescription prescrit par règlement à son égard, si ce n'est dans les circonstances prescrites par règlement.

Remboursement des distributeurs et autres : délai de prescription

(7) Malgré toute obligation prévue par la présente loi de rembourser aux distributeurs prescrits ou à d'autres personnes prescrites la protection contre les frais de distribution qu'ils offrent aux consommateurs résidentiels protégés contre les frais de distribution en application du présent article, aucun remboursement n'est payable à un distributeur prescrit ou à une autre personne prescrite après le délai de prescription prescrit par règlement à son égard lorsque le remboursement se fonde sur le droit antérieur d'un consommateur, au titre du présent article, à une somme qui n'a pas encore été versée ou remboursée en application du présent article, si ce n'est dans les circonstances prescrites par règlement.

Disposition transitoire

(8) Si, pour des raisons techniques ou opérationnelles, un distributeur visé au paragraphe (3) n'a pas pu adapter ses factures pour les rendre conformes au présent article et aux règlements avant l'émission de sa première facture pour l'électricité consommée après la date prescrite relativement à un consommateur admissible à la protection contre les frais de distribution en application du présent article :

- a) le distributeur adapte ses factures des que possible, mais dans tous les cas au plus tard à la date prescrite par règlement;
- b) les consommateurs continuent d'avoir droit à la protection contre les frais de distribution prévue par la présente loi et peuvent la recevoir sous forme de crédit forfaitaire indiqué sur la facture de la première période de facturation postérieure à l'adaptation des factures ou par tout autre moyen prescrit par règlement.

Règlements

(9) Le lieutenant-gouverneur en conseil peut, par règlement :

- a) prescrire des consommateurs ou des catégories de consommateurs comme étant des consommateurs résidentiels protégés contre les frais de distribution pour l'application du présent article;
- b) prescrire des dates pour l'application des paragraphes (1) et (8);
- c) prescrire des distributeurs pour l'application du présent article;

- d) régir tout ce qui est mentionné au présent article comme étant prescrit ou prévu par règlement ou devant être fait conformément aux règlements;
- e) régir la prestation par le ministre de la protection contre les frais de distribution à l'intention des consommateurs qui y sont admissibles en application du présent article, et notamment déterminer la ou les modes de calcul du montant de cette protection;
- f) exiger que la SIERE reçoive des paiements du ministre et en effectue aux distributeurs titulaires d'un permis ou aux personnes prescrites par règlement, à l'égard de la protection contre les frais de distribution offerte en application du présent article, et prescrire les méthodes à suivre pour établir les montants à payer aux distributeurs ou aux consommateurs résidentiels protégés contre les frais de distribution à l'égard de cette protection.

Définitions

(10) Les définitions qui suivent s'appliquent au présent article.

«consommateur résidentiel protégé contre les frais de distribution» S'entend au sens prévu par règlement. («distribution rate-protected residential consumer»)

«frais de distribution mensuels de base» S'entend au sens prévu par règlement. («monthly base distribution charges»)

Crédit de livraison pour les consommateurs se trouvant dans une réserve

79.4 (1) Le ministre octroie un crédit de livraison aux consommateurs se trouvant dans une réserve qui satisfont aux critères prescrits en application du présent article à l'égard de l'électricité consommée à compter de la date prescrite par règlement.

Crédits affectés par la Législature

(2) Les sommes nécessaires à l'octroi des crédits prévus au présent article sont prélevées sur les crédits affectés à cette fin par la Législature.

Coûts admissibles

(3) Les coûts admissibles au titre du crédit de livraison visé au paragraphe (1) sont les suivants :

- a) le total des frais suivants que le consommateur serait par ailleurs tenu de payer :
 - (i) tous les frais de distribution variables et fixes,
 - (ii) tous les frais calculés en fonction du tarif de service de réseau pour le transport au détail,
 - (iii) tous les frais calculés en fonction du tarif de raccordement pour le transport au détail,
 - (iv) tous les frais liés aux pertes subies dans le cadre de la distribution d'électricité, sauf les sommes comprises dans les frais réglementés prévus par règlement,
 - (v) les autres frais prescrits par règlement;
- b) lorsque le distributeur ou l'autre personne ou entité prescrites par règlement ne prévoit pas de frais de livraison, les frais de service mensuels ou toute autre somme prescrite à l'égard d'un distributeur prescrit.

Crédit de livraison

(4) Sauf disposition contraire prévue par règlement, le distributeur, la personne ou l'entité octroie le crédit de livraison visé au paragraphe (1) en créditant le compte du consommateur se trouvant dans une réserve.

Idem

(5) Les règlements peuvent exiger que les distributeurs et d'autres personnes ou entités octroient un crédit de livraison à tout consommateur se trouvant dans une réserve qui y a droit au titre du paragraphe (1), de la manière prescrite ou conformément aux méthodes prescrites.

Idem

(6) Le distributeur ou toute autre personne ou entité prescrite a droit à un dédommagement provenant des sommes visées au paragraphe (2) pour la perte de revenus subie par suite de l'octroi des crédits de livraison prévus au présent article.

Renseignements

(7) Si les règlements comportent une disposition en ce sens, la Commission, la SIERE, les distributeurs et d'autres personnes ou entités, ou certains d'entre eux, fournissent au ministère de l'Énergie et s'échangent les renseignements et rapports nécessaires pour faciliter la mise en oeuvre, l'administration, le financement et l'octroi des crédits de livraison ou de toute autre chose exigée en application du présent article.

Paiement du crédit de livraison au consommateur : délai de prescription

(8) Malgré tout droit antérieur, au titre du présent article, d'un consommateur se trouvant dans une réserve qui est admissible à un crédit de livraison, aucun crédit de livraison n'est payable à celui-ci après un délai de prescription prescrit par règlement à son égard, si ce n'est dans les circonstances prescrites par règlement.

Remboursement des distributeurs et autres : délai de prescription

(9) Malgré toute obligation prévue par la présente loi de rembourser aux distributeurs ou à d'autres personnes ou entités prescrites les crédits de livraison qu'ils octroient aux consommateurs se trouvant dans une réserve en vertu du présent article, aucun remboursement n'est payable à un distributeur ou une autre personne ou entité prescrite après un délai de prescription prescrit par règlement à son égard lorsque le remboursement se fonde sur le droit antérieur, au titre du présent article, d'un consommateur se trouvant dans une réserve à une somme qui n'a pas encore été versée ou remboursée en application du présent article, si ce n'est dans les circonstances prescrites par règlement.

Disposition transitoire

(10) Si, pour des raisons techniques ou opérationnelles, un distributeur visé au paragraphe (4) n'a pas pu adapter ses factures pour les rendre conformes au présent article et aux règlements avant l'émission de sa première facture pour l'électricité consommée après la date prescrite relativement à un compte admissible :

- a) le distributeur adapte ses factures dès que possible, mais dans tous les cas au plus tard à la date prescrite par règlement;
- b) les consommateurs se trouvant dans une réserve continuent d'avoir droit au crédit de livraison prévu par la présente loi et ils peuvent le recevoir sous forme de crédit forfaitaire indiqué sur la facture de la première période de facturation postérieure à l'adaptation des factures ou par tout autre moyen prescrit par règlement.

Règlements

(11) Le lieutenant-gouverneur en conseil peut, par règlement :

- a) régir qui est un consommateur se trouvant dans une réserve pour l'application du présent article, et notamment prévoir que les consommateurs occupant certaines régions sont des consommateurs se trouvant dans une réserve, que cette région soit ou non une «réserve» au sens d'une autre loi;
- b) prescrire des dates pour l'application des paragraphes (1) et (10);
- c) régir l'octroi des crédits de livraison prévus au présent article aux consommateurs se trouvant dans une réserve, et notamment régir tout ce qui, aux termes du présent article, doit être prescrit ou prévu par règlement ou fait conformément aux règlements;
- d) déterminer la ou les modes de calcul du montant des crédits de livraison à octroyer par le ministre à l'intention des consommateurs se trouvant dans une réserve visés au présent article;
- e) exiger que la SIERE reçoive des paiements du ministre et en effectue au ministre, aux distributeurs titulaires d'un permis ou aux personnes prescrites par règlement, à l'égard des crédits de livraison prévus au présent article, et prescrire les méthodes à suivre pour établir les sommes à payer aux distributeurs ou aux consommateurs se trouvant dans une réserve au titre des crédits octroyés.

Définition

(12) La définition qui suit s'applique au présent article.

«consommateur se trouvant dans une réserve» S'entend au sens prévu par règlement.

Champ d'application

79.5 Les articles 79.6 à 79.11 s'appliquent aux programmes prévus aux articles 79, 79.2, 79.3 et 79.4 dans la mesure où ils sont financés au moyen des crédits affectés à cette fin par la Législature.

Définition

79.6 La définition qui suit s'applique aux articles 79.7 à 79.11.

«ministre des Finances» Le ministre des Finances ou l'autre membre du Conseil exécutif qui est chargé de l'application de ces articles en vertu de la *Loi sur le Conseil exécutif*.

Dossiers

79.7 (1) Tout distributeur et toute personne prescrite par règlement tient, dans un lieu situé en Ontario, les dossiers nécessaires pour établir et vérifier que les articles 79, 79.2, 79.3 et 79.4 et les règlements connexes sont respectés, ainsi que les dossiers dont ces règlements exigent la tenue.

Dossiers électroniques

(2) La personne qui tient des dossiers sous forme électronique veille à ce que ces dossiers, dès leur création et pendant toute leur durée obligatoire de conservation :

- a) demeurent complets et inchangés, mis à part les modifications ou les ajouts apportés dans le cours normal de leur communication, de leur stockage ou de leur affichage;
- b) puissent être imprimés et produits sur un support électronique lisible pour inspection, examen ou vérification.

Conservation des dossiers

(3) Sauf autorisation écrite du ministre des Finances, les dossiers qui doivent être tenus en application du paragraphe (1) ne doivent pas être détruits.

Infraction

(4) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende de 50 \$ à 5 000 \$ quiconque ne tient pas des dossiers conformément au présent article.

Inspections et enquêtes

79.8 (1) Le ministre des Finances peut nommer un ou plusieurs inspecteurs qui sont autorisés à exercer, à toute fin liée à l'application et à l'exécution des articles 79, 79.2, 79.3 et 79.4 de la présente loi, les pouvoirs et les fonctions d'une personne autorisée par lui en vertu du paragraphe 31 (1) de la *Loi sur la taxe de vente au détail*.

Idem

(2) Les paragraphes 31 (1), (2), (2.1) et (2.2) de la *Loi sur la taxe de vente au détail* s'appliquent, avec les adaptations nécessaires, à l'égard de l'application et de l'exécution des articles 79, 79.2, 79.3 et 79.4 de la présente loi.

Admissibilité en preuve

(3) À toute fin liée à l'application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes, le ministre des Finances ou la personne qu'il autorise peut reproduire à partir de données déjà stockées sur support électronique des renseignements déjà fournis sous quelque forme que ce soit par une personne comme l'exigent ces articles ou règlements. La reproduction électronique est admissible en preuve et a la même valeur probante qu'aurait eue l'original si la preuve en avait été faite de la façon habituelle.

Enquête

(4) À toute fin liée à l'application des articles 79, 79.2, 79.3 et 79.4 de la présente loi ou des règlements connexes, le ministre des Finances peut autoriser une personne, qu'elle soit ou non employée dans le ministère du ministre des Finances, à mener l'enquête qu'il estime nécessaire sur quoi que ce soit qui se rapporte à l'application de la présente loi ou des règlements.

Copies

(5) La personne à laquelle un livre ou un autre document a été produit ou qui en a effectué l'examen en vertu du présent article, ou un fonctionnaire du ministère, peut en tirer ou en faire tirer une ou plusieurs copies. Le document qui se présente comme étant attesté par cette personne en tant que copie tirée conformément au présent article est admissible en preuve et a la même valeur probante qu'aurait eue l'original si la preuve en avait été faite de la façon habituelle.

Observation

(6) Nul ne doit gêner ni entraver une personne dans l'exécution de ce que le présent article l'autorise à faire, ni l'empêcher ou tenter de l'empêcher de le faire.

Idem

(7) Malgré toute autre règle de droit à l'effet contraire, quiconque est tenu par le présent article de faire une chose doit la faire, sauf s'il ne le peut pas.

Prestation de serment

(8) Toute personne habilitée à faire prêter serment et toute personne qui y est expressément autorisée par le lieutenant-gouverneur en conseil peut recevoir des déclarations solennelles ou des affidavits portant sur les renseignements fournis conformément au présent article. Toutefois, les personnes expressément autorisées ne doivent pas exiger d'honoraires.

Application de la Loi de 2009 sur les enquêtes publiques

(9) L'article 33 de la *Loi de 2009 sur les enquêtes publiques* s'applique à une enquête visée au paragraphe (4).

Recouvrement des trop-perçus

Définitions

79.9 (1) Les définitions qui suivent s'appliquent au présent article.

«inspecteur» Inspecteur visé à l'article 79.8. («inspector»)

«trop-perçu» Somme reçue par une personne en sus de celles auxquelles elle a droit en vertu des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes. («overpayment»)

Avis de trop-perçu

(2) S'il semble à l'inspecteur qu'une personne a reçu un trop-perçu, le ministre des Finances peut envoyer à cette dernière un avis écrit l'informant de ce qui suit :

1. Le fait que la personne a reçu un trop-perçu.
2. Le montant du trop-perçu et la façon dont il a été calculé.
3. Les mesures que la personne doit prendre à l'égard du trop-perçu.
4. La date à laquelle ces mesures doivent avoir été prises, cette date devant tomber dans les six mois qui suivent la date de l'avis.
5. Le fait que le ministre des Finances a le pouvoir d'établir une cotisation à l'égard de la personne pour le montant du trop-perçu, majoré des intérêts, si elle n'a pas pris les mesures exigées au plus tard à la date fixée.

Calcul du trop-perçu

(3) Pour l'application du présent article, l'inspecteur calcule le trop-perçu ou le solde impayé de celui-ci de la manière, sous la forme et selon les règles que le ministre des Finances estime adéquates et opportunes.

Cotisation

(4) Si une personne ne prend pas les mesures exigées dans l'avis visé au paragraphe (2) dans le délai qui y est fixé et dans tout délai supplémentaire qu'elle a demandé et que le ministre des Finances lui a accordé, ce dernier peut établir une cotisation ou une nouvelle cotisation pour le trop-perçu ou le solde impayé de celui-ci en se fondant sur le calcul effectué par l'inspecteur en application du paragraphe (3).

Pénalité

(5) S'il établit une cotisation ou une nouvelle cotisation en vertu du paragraphe (4) et qu'il est convaincu que le non-respect, par la personne, de l'obligation de prendre les mesures exigées dans l'avis était attribuable à une négligence, à un manque de diligence, à une omission volontaire ou à une fraude, le ministre des Finances peut imposer à la personne une pénalité égale au montant auquel s'élève le solde impayé du trop-perçu lorsque la pénalité est imposée.

Délai

(6) Le ministre des Finances ne doit pas établir de cotisation ou de nouvelle cotisation en vertu du paragraphe (4) plus de 48 mois après la fin du mois pendant lequel la personne a reçu le trop-perçu.

Exception : présentation inexacte des faits

(7) Le paragraphe (6) ne s'applique pas si le ministre des Finances établit que la personne a fait une présentation inexacte des faits par négligence, manque de diligence ou omission volontaire, ou a commis une fraude en communiquant des renseignements en application de la présente loi ou des règlements ou en ne divulguant pas des renseignements.

Assimilation à une redevance de liquidation de la dette

(8) Le montant de toute cotisation ou nouvelle cotisation établie par le ministre des Finances en vertu du présent article est réputé, pour l'application et l'exécution de la présente loi, être une redevance de liquidation de la dette, au sens du paragraphe 85 (1) de la *Loi de 1998 sur l'électricité*, due et exigible, que la personne a perçue, le dernier jour du mois pendant lequel elle a reçu le trop-perçu, en qualité de percepteur nommé en application du paragraphe 85.3 (1) de cette loi et, à ces fins :

- a) les articles 85.11, 85.12, 85.14, 85.17 et 85.30 de cette loi s'appliquent, avec les adaptations nécessaires;
- b) pour l'application des articles 85.11 et 85.14 de cette loi et sans préjudice de la portée générale de l'alinéa a) du présent paragraphe, les mentions de la Société financière valent mention du ministre des Finances et les mentions du ministre des Finances valent mention du ministre des Finances au sens de l'article 79.6 de la présente loi;
- c) les règlements pris en vertu de cette loi qui visent le calcul du ou des taux d'intérêt à payer en application de l'article 85.11 de la même loi et le mode de calcul des intérêts s'appliquent, avec les adaptations nécessaires;
- d) les articles 23 et 36, les paragraphes 37 (1), (1.1) et (2) et les articles 37.1, 38 et 39 de la *Loi sur la taxe de vente au détail* s'appliquent, avec les adaptations nécessaires.

Disposition des montants remboursés

(9) Si la totalité ou une partie d'un trop-perçu est remboursée au ministre des Finances, le ministre de l'Énergie prend les arrangements financiers et effectue les paiements nécessaires pour faire en sorte que toute personne qui a droit à la totalité ou à une partie du trop-perçu reçoive la somme appropriée.

Confidentialité des renseignements

79.10 (1) Sauf si elle y est autorisée par le présent article, aucune personne employée par le gouvernement de l'Ontario ne doit :

- a) communiquer sciemment ou permettre sciemment que soient communiqués à qui que ce soit des renseignements obtenus par le ministre de l'Énergie ou le ministre des Finances ou pour son compte pour l'application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes;
- b) permettre sciemment à quiconque d'inspecter un dossier ou une chose obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi, ou d'y avoir accès.

Témoignage

- (2) Aucune personne employée par le gouvernement de l'Ontario ne peut être tenue, dans le cadre d'une instance judiciaire :
- a) de témoigner au sujet d'un renseignement obtenu par le ministre de l'Énergie ou le ministre des Finances ou pour son compte pour l'application de la présente loi;
 - b) de produire un dossier ou une chose obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi.

Exceptions

- (3) Les paragraphes (1) et (2) ne s'appliquent pas à l'égard des instances suivantes :
- a) les instances criminelles introduites en vertu d'une loi du Parlement du Canada;
 - b) les instances rattachées au procès d'une personne pour infraction à une loi de la Législature;
 - c) les instances relatives à l'application ou à l'exécution de la présente loi ou de la partie V.1 ou VI de la *Loi de 1998 sur l'électricité*.

Communication

- (4) Une personne employée par le gouvernement de l'Ontario peut, dans l'exercice de ses fonctions dans le cadre de l'application ou de l'exécution des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes :
- a) communiquer ou permettre que soient communiqués à une autre personne employée par le gouvernement de l'Ontario affectée à l'application ou à l'exécution d'une loi, ou à un employé de la Commission, des renseignements obtenus par l'un ou l'autre ministre ou pour son compte pour l'application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes;
 - b) permettre à une autre personne employée par le gouvernement de l'Ontario affectée à l'application ou à l'exécution d'une loi, ou à un employé de la Commission, d'inspecter un dossier ou une chose obtenus par l'un ou l'autre ministre ou pour son compte pour l'application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes, ou d'y avoir accès.

Réciprocité

- (5) La personne qui reçoit des renseignements ou a accès à des dossiers ou à des choses en vertu du paragraphe (4) est tenue de communiquer ou de fournir à ce ministre, à titre réciproque, les renseignements, les dossiers ou les choses qu'elle a obtenus et qui ont une incidence sur l'application ou l'exécution de la présente loi.

Utilisation des renseignements

- (6) Les renseignements, les dossiers ou les choses communiqués ou fournis en vertu du présent article ne peuvent être utilisés que pour la mise en application ou l'exécution des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes ou d'une loi dont la personne qui les reçoit assure l'application ou l'exécution.

Idem

- (7) Le ministre des Finances peut autoriser la remise de renseignements ou de la copie d'un dossier ou d'une chose obtenus par lui ou pour son compte pour l'application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes aux personnes suivantes :
- a) la personne qui a fourni les renseignements, le dossier ou la chose;
 - b) la personne qui doit payer ou a payé une somme exigible en application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes;
 - c) le représentant légal de la personne visée à l'alinéa a) ou b) ou le mandataire de celle-ci autorisé par écrit à agir comme tel.

Communication autorisée

- (8) Le ministre des Finances peut autoriser la remise de renseignements ou de la copie d'un dossier ou d'une chose obtenus par lui ou pour son compte pour l'application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes à une personne employée par tout gouvernement si les conditions suivantes sont réunies :

- a) les renseignements, le dossier ou la chose obtenus par ce gouvernement pour l'application d'une loi qui fixe une taxe ou des droits sont communiqués ou fournis à titre réciproque au ministre;
- b) les renseignements, le dossier ou la chose ne sont utilisés qu'aux fins de l'application ou de l'exécution d'une loi qui fixe une taxe ou des droits.

Infraction

(9) Quiconque contrevient à une disposition du présent article est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende maximale de 2 000 \$.

Infractions

Déclarations fausses et fraude

79.11 (1) Est coupable d'une infraction toute personne qui commet les omissions ou les actes suivants :

1. Faire une déclaration fausse ou trompeuse dans un document ou une réponse exigés ou présentés en application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes, y participer, y consentir ou y acquiescer.
2. Detruire, altérer, mutiler ou cacher les renseignements ou les dossiers d'une personne, ou en disposer autrement, dans le but d'éluder l'observation des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes.
3. Faire, dans les dossiers d'une personne qui doit tenir des dossiers pour l'application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes, une inscription fausse ou trompeuse concernant un détail important, y consentir ou y acquiescer.
4. Omettre de faire, dans les dossiers d'une personne qui doit tenir des dossiers pour l'application des articles 79, 79.2, 79.3 et 79.4 ou des règlements connexes, une inscription concernant un détail important, y consentir ou y acquiescer.
5. Délibérément et par quelque moyen que ce soit, se soustraire ou tenter de se soustraire au respect d'une obligation prévue par les articles 79, 79.2, 79.3 et 79.4 ou les règlements connexes.

Peine suivant une déclaration de culpabilité

(2) Toute personne déclarée coupable d'une infraction prévue au paragraphe (1) est passible des peines suivantes, ou d'une seule de ces peines, qui s'ajoutent aux autres pénalités imposées en vertu de la présente loi :

1. Une amende de 1 000 \$ à 10 000 \$.
2. Un emprisonnement maximal de deux ans.

Infraction générale

(3) Toute personne qui, en commettant un acte ou une omission, contrevient à toute autre exigence imposée en vertu des articles 79, 79.2, 79.3 et 79.4 est coupable d'une infraction et passible, sur déclaration de culpabilité, si aucune autre peine n'est prévue pour l'infraction, d'une amende de 50 \$ à 5 000 \$.

Délai de prescription

(4) Les poursuites portant sur une infraction prévue par le présent article doivent être engagées dans les six ans qui suivent la date de l'objet de l'infraction.

Païement des amendes

(5) Les amendes imposées sur déclaration de culpabilité pour une infraction prévue par le présent article doivent être payées au ministre des Finances pour le compte de la Couronne du chef de l'Ontario.

Entrée en vigueur

5 (1) Sous réserve du paragraphe (2), la présente annexe entre en vigueur le jour où *Loi de 2017 pour des frais d'électricité équitables* reçoit la sanction royale.

(2) L'article 2 entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

NOTE EXPLICATIVE

*La note explicative, rédigée à titre de service aux lecteurs du projet de loi 132, ne fait pas partie de la loi.
Le projet de loi 132 a été édicté et constitue maintenant le chapitre 16 des Lois de l'Ontario de 2017.*

Le projet de loi édicte une nouvelle loi et apporte des modifications à la *Loi de 1998 sur l'électricité* et à la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*.

ANNEXE 1

LOI DE 2017 SUR LE PLAN ONTARIEN POUR DES FRAIS D'ÉLECTRICITÉ ÉQUITABLES

L'annexe édicte la *Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables*. Celle-ci crée un cadre qui prévoit la répartition, entre les consommateurs d'électricité actuels et futurs, des coûts et des avantages associés à l'«initiative pour l'énergie propre». Définie à la partie I, cette initiative désigne collectivement les politiques du gouvernement de l'Ontario qui visent notamment à éliminer la production au charbon et à favoriser le développement de sources d'énergie et de technologies énergétiques propres, modernes et fiables ainsi que l'investissement dans ce domaine.

Aux termes de la partie II, la Commission de l'énergie de l'Ontario doit décider des tarifs d'électricité réduits et des autres ajustements à faire pour certaines catégories de consommateurs à l'égard de périodes déterminées. Par exemple, pour la catégorie des «consommateurs aux tarifs réglementés», les tarifs d'électricité à payer au cours de la période qui commence le 1^{er} juillet 2017 et se termine le 30 avril 2018 sont ceux, dont décide la Commission, qui auraient pour résultat que le montant total de la facture d'un membre hypothétique de cette catégorie soit inférieur de 25 % à celui qui lui aurait été facturé selon les tarifs de comparaison. Les détails relatifs aux décisions à prendre sont prescrits par règlement.

Aux termes de la partie III, certains consommateurs d'électricité doivent payer ce que l'on appelle l'«ajustement pour l'énergie propre». Celui-ci est établi par le gestionnaire des services financiers conformément aux règles énoncées dans la Loi et les règlements. (Selon l'article 18 de la Loi, Ontario Power Generation Inc. est nommée gestionnaire des services financiers sauf circonstances particulières.) La partie III précise par ailleurs les rôles et les responsabilités des vendeurs d'électricité et de la Société indépendante d'exploitation du réseau d'électricité («SIERE») en ce qui concerne la perception et le versement des sommes payées au titre de l'ajustement pour l'énergie propre.

La partie IV exige que le ministre de l'Énergie calcule le «montant de répartition équitable» en suivant des étapes précises. Elle prévoit en outre que le gestionnaire des services financiers doit préparer un «Plan de financement» écrit servant à déterminer s'il faut contracter des obligations financières. Des principes et des restrictions concernant la préparation et la mise en oeuvre du plan sont prévus.

Aux termes de la partie V, la SIERE doit calculer le «report de la SIERE» conformément aux règlements et créer et tenir un compte d'écart dans lequel elle inscrit ce report chaque mois. Un «actif réglementaire» est créé en application de l'article 25, et la SIERE a le droit de recouvrer le solde inscrit dans le compte d'écart auprès de certains consommateurs. La SIERE est autorisée à transférer une partie déterminée de l'actif réglementaire à une entité financière. Ce transfert donne lieu à la création d'un actif d'investissement et à l'acquisition par le destinataire du transfert d'une «participation d'investissement» correspondante. Diverses règles sont énoncées en ce qui concerne la validité et la priorité du transfert d'une participation d'investissement.

La partie VI prévoit les règles applicables à l'«actif d'investissement». Selon l'article 29, cet actif constitue un droit de propriété et un intérêt courants et irrévocables constitués, collectivement, des divers droits et intérêts précisés des détenteurs d'une participation d'investissement. Des règles sont prévues en ce qui concerne la validité et la priorité de rang du transfert d'une participation d'investissement et l'octroi d'une sûreté par le détenteur d'une telle participation.

La partie VII traite de questions diverses, notamment du pouvoir réglementaire du lieutenant-gouverneur en conseil.

La *Loi de 1998 sur l'électricité* et la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* sont modifiées afin de traiter de diverses questions liées à l'édiction de la nouvelle loi. Ainsi, les objets de la SIERE et d'Ontario Power Generation Inc. sont élargis pour tenir compte des pouvoirs et fonctions que leur attribue la nouvelle loi.

ANNEXE 2

MODIFICATIONS DE LA LOI DE 1998 SUR LA COMMISSION DE L'ÉNERGIE DE L'ONTARIO

Des modifications sont apportées à la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, dont les suivantes :

1. L'article 79 de la Loi est modifié afin que le dédommagement pour la protection contre les tarifs offerte à certaines catégories de consommateurs en milieu rural ou dans une région éloignée puisse être prélevé sur les crédits affectés par la Législature, au lieu d'être payé par les consommateurs.
2. L'article 79.2 de la Loi, qui régit le Programme ontarien d'aide relative aux frais d'électricité, est abrogé et remplacé. Le programme est maintenu, mais, au lieu d'être payé par les consommateurs, il sera financé par l'affectation de crédits par la Législature, après l'épuisement du compte d'écart tenu par la Société indépendante d'exploitation du

réseau d'électricité créée aux termes du Plan. D'autres dispositions traitent du partage, de l'utilisation et de la divulgation des renseignements se rapportant à l'administration du Programme ontarien d'aide relative aux frais d'électricité.

3. Des programmes sont créés pour aider certains consommateurs résidentiels protégés contre les frais de distribution et les consommateurs se trouvant dans une réserve.
4. Des modifications d'ordre technique et administratif sont apportées pour appuyer la mise en œuvre et la supervision de ces programmes. Des dispositions sont notamment prévues en ce qui concerne les vérifications, la tenue des dossiers, les inspections et enquêtes, les infractions et les pénalités.

CHAPTER 17

An Act to implement 2017 Budget measures

Assented to June 1, 2017

1	Contents of this Act
2	Commencement
3	Short title
Schedule 1	Land Transfer Tax Act
Schedule 2	Taxation Act, 2007

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Budget Measures Act (Housing Price Stability and Ontario Seniors' Public Transit Tax Credit), 2017*.

**SCHEDULE 1
LAND TRANSFER TAX ACT**

1 Subsection 1 (1) of the *Land Transfer Tax Act* is amended by adding the following definitions:

“designated land” means,

- (a) land that contains at least one and not more than six single family residences; and
- (b) such other land as may be prescribed by the Minister; (“bien-fonds désigné”)

“foreign corporation” means a corporation that is one of the following:

- 1. A corporation that is not incorporated in Canada.
- 2. A corporation, the shares of which are not listed on a stock exchange in Canada, that is incorporated in Canada and is controlled, directly or indirectly in any manner whatever, within the meaning of section 256 of the *Income Tax Act* (Canada), by one or more of the following:
 - i. A foreign national.
 - ii. A corporation that is not incorporated in Canada.
 - iii. A corporation that would, if each share of the corporation's capital stock that is owned by a foreign national or by a corporation described in paragraph 1 were owned by a particular person, be controlled, directly or indirectly in any manner whatever, within the meaning of section 256 of the *Income Tax Act* (Canada), by the particular person; (“personne morale étrangère”)

“foreign entity” means a foreign corporation or a foreign national; (“entité étrangère”)

“foreign national” means an individual who is a foreign national as defined in subsection 2 (1) of the *Immigration and Refugee Protection Act* (Canada); (“étranger”)

“Greater Golden Horseshoe Region” means the area of land comprised of the geographic areas of the following municipalities:

- 1. City of Barrie.
- 2. County of Brant.
- 3. City of Brantford.
- 4. County of Dufferin.
- 5. Regional Municipality of Durham.
- 6. City of Guelph.
- 7. Haldimand County.
- 8. Regional Municipality of Halton.
- 9. City of Hamilton.
- 10. City of Kawartha Lakes.
- 11. Regional Municipality of Niagara.
- 12. County of Northumberland.
- 13. City of Orillia.
- 14. Regional Municipality of Peel.
- 15. City of Peterborough.
- 16. County of Peterborough.
- 17. County of Simcoe.
- 18. City of Toronto.
- 19. Regional Municipality of Waterloo.
- 20. County of Wellington.
- 21. Regional Municipality of York; (“région élargie du Golden Horseshoe”)

“specified region” means,

- (a) the Greater Golden Horseshoe Region, except for any area of land in that Region that the Minister prescribes as excluded from the specified region; and
- (b) any other areas of land that the Minister prescribes as included in the specified region: ("région déterminée")

"taxable trustee", in relation to a conveyance of designated land, means a trustee of a trust with at least one trustee that is a foreign entity, or a trust with no foreign entity trustees if, immediately after the conveyance is tendered for registration, a beneficiary of the trust who is a foreign entity holds a beneficial interest in the designated land to which the conveyance relates, but does not include a trustee acting for the following types of trusts:

1. A mutual fund trust within the meaning of subsection 132 (6) of the *Income Tax Act* (Canada).
2. A real estate investment trust as defined in subsection 122.1 (1) of the *Income Tax Act* (Canada).
3. A SIFT trust as defined in subsection 122.1 (1) of the *Income Tax Act* (Canada); ("fiduciaire imposable")

2 Section 2 of the Act is amended by adding the following subsection:

Additional tax on foreign entities and taxable trustees

(2.1) In addition to any tax payable under subsection (1), and subject to section 2.1, every person who, on or after April 21, 2017, tenders for registration in Ontario a conveyance by which any designated land that is located within the specified region is conveyed to a foreign entity or a taxable trustee shall pay, when the conveyance is tendered for registration or before it is tendered for registration, a tax,

- (a) computed at the rate of 15 per cent of the value of the consideration for the conveyance; or
- (b) if an alternate rate of tax is prescribed by the Minister for the purposes of this subsection, computed by multiplying the prescribed alternate rate by the value of the consideration for the conveyance.

3 The Act is amended by adding the following section:

Special rules re subs. 2 (2.1)

2.1 (1) This section applies with respect to tax payable under subsection 2 (2.1).

Same

(2) For greater certainty, in this section, a reference to tax payable under subsection 2 (2.1) includes tax payable under subsection 3 (2) that is determined in accordance with subsection 2 (2.1).

Exemption, agreements prior to April 21, 2017

(3) No tax is payable under subsection 2 (2.1) if,

- (a) the land is conveyed pursuant to an agreement of purchase and sale entered into on or before April 20, 2017; and
- (b) any assignment of the agreement of purchase and sale to any other person was entered into on or before April 20, 2017.

Exemption, prescribed classes or requirements

(4) No tax is payable under subsection 2 (2.1) if the land is conveyed,

- (a) to a foreign national who meets such residency, citizenship or immigration status requirements as may be prescribed by the Minister;
- (b) to a foreign national whose spouse meets such residency, citizenship or immigration status requirements as may be prescribed by the Minister;
- (c) to a foreign entity that is in a class of foreign entities prescribed by the Minister, or that meets such requirements as may be prescribed by the Minister; or
- (d) in accordance with such requirements as may be prescribed by the Minister.

Rebate

(5) The Minister may rebate the tax paid by a person under subsection 2 (2.1) on a conveyance of land if the Minister is satisfied that the land was conveyed to a foreign entity or taxable trustee that,

- (a) meets such residency or citizenship requirements as may be prescribed by the Minister;
- (b) meets such educational enrolment or employment requirements as may be prescribed by the Minister; or
- (c) meets such other requirements as may be prescribed by the Minister.

Calculation of additional tax where non-designated land

(6) If, in a conveyance of designated land in respect of which tax is payable under subsection 2 (2.1), a part of the land being conveyed is used for a purpose other than residential purposes, the Minister may, to the extent that the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with a single family residence, and the person tendering the conveyance for registration is, despite subsection 2 (2.1), liable to the additional tax imposed under that subsection only upon that amount.

4 (1) Subsection 3 (4) of the Act is amended by adding "Subject to subsection (4.1)" at the beginning.

(2) Section 3 of the Act is amended by adding the following subsection:

Exception, joint and several liability for tax under subs. 2 (2.1)

(4.1) If more than one person acquires a beneficial interest in land, or more than one person's beneficial interest in land is increased as a result of the disposition, each of them is jointly and severally liable to pay the amount of tax imposed under subsection (2) that was determined at the rate under subsection 2 (2.1).

5 Subsection 5.0.1 (1) of the Act is repealed and the following substituted:

Additional information

(1) Every transferee, in a conveyance or disposition in respect of which a statement, affidavit or return is required under section 5, shall provide the Minister with such additional information as may be prescribed about the transferee and the conveyance or disposition, and shall provide the information in the form and manner approved by the Minister.

6 The Act is amended by adding the following section:

Offence, false or misleading statements

5.0.3 Every person who makes or assists in making a statement in a statement, affidavit or return required under section 5 for the purpose of determining tax liability under subsection 2 (2.1) that, at the time and in light of the circumstances under which it was made, is false or misleading in respect of any fact or that omits to state any material fact, the omission of which makes the statement false or misleading, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

7 Subsection 22 (1.1) of the Act is repealed and the following substituted:

Regulations

(1.1) The Minister may make regulations,

- (a) prescribing land that is included in the definition of "designated land";
- (b) prescribing areas of land in the Greater Golden Horseshoe Region that are excluded from the definition of "specified region";
- (c) prescribing areas of land that are included in the definition of "specified region";
- (d) prescribing an alternate rate of tax for the purposes of subsection 2 (2.1);
- (e) prescribing classes of foreign entities and prescribing requirements to be met for the purposes of the exemption in subsection 2.1 (4);
- (f) prescribing citizenship, residency, educational enrolment, employment or other requirements to be met for the purposes of the rebate in subsection 2.1 (5);
- (g) providing for the payment of interest on a rebate of tax authorized by subsection 2.1 (5), and prescribing the rate of such interest and the method by which it is to be calculated;
- (h) defining "owned" for the purposes of the definition of "purchaser" in subsection 9.2 (1).

Commencement

8 This Schedule comes into force on the day the *Budget Measures Act (Housing Price Stability and Ontario Seniors' Public Transit Tax Credit), 2017* receives Royal Assent.

SCHEDULE 2 TAXATION ACT, 2007

1 (1) Subsection 84 (1) of the *Taxation Act, 2007* is amended by adding the following paragraph:

14.1 An Ontario seniors' public transit tax credit under section 103.0.1.

(2) Subsection 84 (2.1) of the Act is amended by adding the following paragraph:

1.1 The tax credit referred to in paragraph 14.1 of subsection (1), with respect to taxation years ending after December 31, 2016.

(3) Subsection 84 (3) of the Act is amended by striking out "14, 15" in the portion before clause (a) and substituting "14, 14.1, 15".

2 The Act is amended by adding the following section:

Ontario seniors' public transit tax credit

Definitions

103.0.1 (1) In this section, and subject to the regulations made by the Minister of Finance,

"eligible cash payment for specialized transportation services" means, subject to subsection (2), a payment made to a qualified Ontario transit organization for specialized transportation services, other than a payment for an eligible electronic payment card, an eligible public transit pass, an eligible prescribed transit access method or an eligible single-use payment ticket,

(a) for which an itemized receipt is issued, and

(b) that permits the individual who made the payment to use the specialized transportation services of a qualified Ontario transit organization on a single occasion: ("paiement comptant admissible pour services de transport adapté")

"eligible electronic payment card" means, subject to subsection (2), an electronic payment card that is issued by or on behalf of a qualified Ontario transit organization if,

(a) a qualified Ontario transit organization records and provides a receipt for the cost and usage of the electronic payment card, and

(b) the electronic payment card identifies the right of the individual who is the holder or owner of the card to use Ontario public transit services of a qualified Ontario transit organization: ("carte de paiement électronique admissible")

"eligible individual" for a taxation year means an individual, other than a trust, who,

(a) was resident in Ontario on the last day of the year, and

(b) was at least 65 years old on the last day of the preceding taxation year: ("particulier admissible")

"eligible prescribed transit access method" means a method, prescribed by the Minister, by which an individual has the right, other than by the use of an eligible cash payment for specialized transportation services, an eligible electronic payment card, an eligible public transit pass or an eligible single-use payment ticket, to use Ontario public transit services of a qualified Ontario transit organization specified by the Minister: ("mode prescrit admissible d'accès au transport")

"eligible public transit pass" means, subject to subsection (2), a document that is issued by or on behalf of a qualified Ontario transit organization and that identifies the right of the individual who is the holder or owner of the document to use Ontario public transit services of a qualified Ontario transit organization on an unlimited number of occasions during a period of at least one day: ("laissez-passer de transport en commun admissible")

"eligible single-use payment ticket" means, subject to subsection (2), a document that is issued by or on behalf of a qualified Ontario transit organization,

(a) for which an itemized receipt is issued, and

(b) that identifies the right of the individual who is the holder or owner of the document to use Ontario public transit services of a qualified Ontario transit organization on a single occasion: ("ticket de paiement à usage unique admissible")

"Ontario public transit services" means services offered to the general public (other than a charter service or a service that is part of a tour) for transporting individuals from a place in Ontario to another place by means of bus, subway, train or tram, and in respect of which it can reasonably be expected that those individuals would return daily to the place of their departure, and includes any specialized transportation services even if the specialized transportation services are not offered to the general public or are offered by means other than bus, subway, train or tram: ("services ontariens de transport en commun")

“qualified Ontario transit organization” means a specified entity that is authorized under a law of Canada or Ontario to carry on a business that is the provision of Ontario public transit services and does so through a permanent establishment in Ontario; (“organisme de transport ontarien admissible”)

“specialized transportation service provider” has the same meaning as in Part IV of Ontario Regulation 191/11 (Integrated Accessibility Standards) made under the *Accessibility for Ontarians with Disabilities Act, 2005*; (“fournisseur de services de transport adapté”)

“specialized transportation services” has the same meaning as in Part IV of Ontario Regulation 191/11 made under the *Accessibility for Ontarians with Disabilities Act, 2005*; (“services de transport adapté”)

“specified entity” means,

- (a) a division, department or agency of the Government of Ontario or of a municipality in Ontario, the primary purpose of which is to provide Ontario public transit services,
- (b) a person that provides Ontario public transit services on behalf of a person described in clause (a), or
- (c) a specialized transportation service provider. (“entité déterminée”)

Rules re documents issued by qualified Ontario transit organizations to seniors

(2) The following rules apply for the purposes of this section:

1. If a qualified Ontario transit organization accepts payments, for specialized transportation services, of the sort described in the definition of “eligible cash payment for specialized transportation services” in subsection (1) and does so using a fare price that is specifically offered to individuals who are seniors, a payment by a senior to the qualified Ontario transit organization is only an eligible cash payment for specialized transportation services for the purposes of this section if it is a payment of a fare price that is specifically offered to individuals who are seniors.
2. If documents described in the definition of “eligible public transit pass” in subsection (1) are issued by or on behalf of a qualified Ontario transit organization and the documents are specifically for use by individuals who are seniors, a document of a senior issued by or on behalf of the qualified Ontario transit organization is only an eligible public transit pass for the purposes of this section if it is a document that is specifically for use by individuals who are seniors.
3. If an electronic payment card described in the definition of “eligible electronic payment card” in subsection (1) is issued by or on behalf of a qualified Ontario transit organization and the electronic payment card permits the payment of a special fare for seniors, an electronic payment card of a senior is only an eligible electronic payment card for the purposes of this section if it is an electronic payment card that can only be used to pay the special fare for seniors.
4. If documents described in the definition of “eligible single-use payment ticket” in subsection (1) are issued by or on behalf of a qualified Ontario transit organization and the documents are specifically for use by individuals who are seniors, a document of a senior issued by or on behalf of the qualified Ontario transit organization is only an eligible single-use payment ticket for the purposes of this section if it is a document that is specifically for use by individuals who are seniors.
5. The determination of whether or not a person is a senior for the purpose of paying a fare price that is specifically offered to individuals who are seniors is within the discretion of the qualified Ontario transit organization accepting payment of the fare price.
6. The determination of whether or not a person is a senior for the purpose of using a pass, card or ticket that is specifically for use by individuals who are seniors is within the discretion of the qualified Ontario transit organization issuing the pass, card or ticket.

Ontario seniors' public transit tax credit

(3) An individual who is an eligible individual for a taxation year ending after December 31, 2016 may claim an amount in respect of and not exceeding the amount of his or her Ontario seniors' public transit tax credit equal to the lesser of,

- (a) \$225 for a taxation year ending after December 31, 2016 and before January 1, 2018, and \$450 for a taxation year ending after December 31, 2017; and
- (b) the amount calculated using the formula,

$$A \times (B - C)$$

in which,

“A” is 15 per cent,

“B” is the total of all amounts each of which is the portion of the cost of any of the items listed in subsection (4) that is attributable to the individual's use of Ontario public transit services during the period described in subsection (5),

"C" is the total of all amounts each of which is the amount of a reimbursement, allowance or any other form of assistance that the individual is or was entitled to receive in respect of an amount included in computing the value of "B" (other than an amount that is included in computing the income for any taxation year of the individual and that is not deductible in computing the taxable income of the individual).

Items

(4) The items referred to in the description of "B" in subsection (3) are,

- (a) an eligible cash payment for specialized transportation services;
- (b) an eligible electronic payment card;
- (c) an eligible public transit pass;
- (d) an eligible single-use payment ticket; and
- (e) a fare medium of an eligible prescribed transit access method.

Period of use

(5) The period of use referred to in the description of "B" in subsection (3) is,

- (a) in respect of a taxation year ending after December 31, 2016 and before January 1, 2018, the period from July 1, 2017 to December 31, 2017; and
- (b) in respect of a taxation year ending after December 31, 2017, the year.

Part-year residents

(6) An individual who is an eligible individual for a taxation year and who is resident in Canada for only part of the year is entitled to claim for the year only the amount the individual would be entitled to claim for the year under this section that can reasonably be considered wholly applicable to any period in the year throughout which the individual was resident in Canada, computed as though that period were the whole taxation year, except that the amount that may be claimed under this section shall not exceed the amount that the individual would have been entitled to claim under this section if the individual had been resident in Canada throughout the year.

Bankruptcy

(7) An individual who becomes bankrupt in a calendar year is entitled to claim, for each taxation year that ends in the calendar year, only such amounts as the individual is entitled to claim under this section for the taxation year as can reasonably be considered wholly applicable to the taxation year, and the sum of all amounts that may be claimed under this section for all taxation years of the individual ending in a calendar year shall not exceed the total amount that the individual would have been entitled to claim under this section in respect of the calendar year if the individual had not become bankrupt.

Minister's regulations

(8) The Minister of Finance may make regulations,

- (a) deeming organizations to be qualified Ontario transit organizations despite the definition in subsection (1);
- (b) clarifying the meaning of the terms defined in subsection (1).

3 Paragraph 1 of section 176 of the Act is amended by adding the following subparagraph:

- xiv.i The Ontario seniors' public transit tax credit under section 103.0.1.

Commencement

4 This Schedule comes into force on the day the *Budget Measures Act (Housing Price Stability and Ontario Seniors' Public Transit Tax Credit), 2017* receives Royal Assent.

EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 134 and does not form part of the law.
Bill 134 has been enacted as Chapter 17 of the Statutes of Ontario, 2017.*

The Bill implements measures contained in the 2017 Ontario Budget. Amendments are made to the *Land Transfer Tax Act* and the *Taxation Act, 2007*. The major elements of the Bill are described below.

**SCHEDULE 1
LAND TRANSFER TAX ACT**

Section 2 of the *Land Transfer Tax Act* is amended to provide that an additional tax is payable on certain conveyances of land by which designated land that is located within a specified region is conveyed to a foreign entity or a taxable trustee. The new section 2.1 sets out special rules governing the additional tax and provides for exemptions and rebates. Complementary amendments are also made.

**SCHEDULE 2
TAXATION ACT, 2007**

The Schedule amends the *Taxation Act, 2007* to implement an Ontario seniors' public transit tax credit.

The Ontario seniors' public transit tax credit is set out in the new section 103.0.1 of the Act. The credit is refundable and will apply for the 2017 and subsequent taxation years. The maximum available credit is \$225 for the 2017 taxation year and \$450 for subsequent taxation years. Consequential amendments are made to sections 84 and 176 of the Act.

CHAPITRE 17

Loi mettant en oeuvre certaines mesures énoncées dans le Budget de 2017

Sanctionnée le 1^{er} juin 2017

1.	Contenu de la présente loi
2.	Entrée en vigueur
3.	Titre abrégé
Annexe 1	Loi sur les droits de cession immobilière
Annexe 2	Loi de 2007 sur les impôts

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Contenu de la présente loi

1 La présente loi est constituée du présent article, des articles 2 et 3 et de ses annexes.

Entrée en vigueur

2 (1) Sous réserve des paragraphes (2) et (3), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.

(2) Les annexes de la présente loi entrent en vigueur comme le prévoit chacune d'elles.

(3) Si une annexe de la présente loi prévoit que l'une ou l'autre de ses dispositions entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation, la proclamation peut s'appliquer à une ou à plusieurs d'entre elles. En outre, des proclamations peuvent être prises à des dates différentes en ce qui concerne n'importe lesquelles de ces dispositions.

Titre abrégé

3 Le titre abrégé de la présente loi est *Loi de 2017 sur les mesures budgétaires (stabilité des prix du logement et crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun)*.

ANNEXE 1

LOI SUR LES DROITS DE CESSION IMMOBILIÈRE

1 Le paragraphe 1 (1) de la *Loi sur les droits de cession immobilière* est modifié par adjonction des définitions suivantes :

«bien-fonds désigné» S'entend :

- a) d'un bien-fonds qui comporte au moins une habitation unifamiliale, mais pas plus de six;
- b) de tout autre bien-fonds prescrit par le ministre. («designated land»)

«entité étrangère» S'entend d'une personne morale étrangère ou d'un étranger. («foreign entity»)

«étranger» Particulier qui est un étranger au sens du paragraphe 2 (1) de la *Loi sur l'immigration et la protection des réfugiés* (Canada). («foreign national»)

«fiduciaire imposable» Relativement à la cession d'un bien-fonds désigné, s'entend du fiduciaire d'une fiducie dont au moins un des fiduciaires est une entité étrangère, ou d'une fiducie dont aucun des fiduciaires n'est une entité étrangère si, immédiatement après la présentation d'une cession à l'enregistrement, un bénéficiaire de la fiducie qui est une entité étrangère détient un intérêt à titre bénéficiaire dans le bien-fonds désigné visé par la cession. Est exclu le fiduciaire qui agit pour l'un des types suivants de fiducie :

1. Une fiducie de fonds commun de placement au sens du paragraphe 132 (6) de la *Loi de l'impôt sur le revenu* (Canada).
2. Une fiducie de placement immobilier au sens du paragraphe 122.1 (1) de la *Loi de l'impôt sur le revenu* (Canada).
3. Une fiducie intermédiaire de placement déterminée au sens du paragraphe 122.1 (1) de la *Loi de l'impôt sur le revenu* (Canada). («taxable trustee»)

«personne morale étrangère» L'une ou l'autre des personnes morales suivantes :

1. Une personne morale qui n'est pas constituée au Canada.
2. Une personne morale, dont les actions ne sont pas cotées à une bourse des valeurs canadienne, qui est constituée au Canada et qui est contrôlée, directement ou indirectement de quelque manière que ce soit, au sens de l'article 256 de la *Loi de l'impôt sur le revenu* (Canada), par une ou plusieurs des personnes suivantes :
 - i. Un étranger.
 - ii. Une personne morale qui n'est pas constituée au Canada.
 - iii. Une personne morale qui, si toutes les actions de son capital-actions appartenant à des étrangers ou à des personnes morales visées à la disposition 1 appartenaient à une personne donnée, serait contrôlée par celle-ci, directement ou indirectement de quelque manière que ce soit, au sens de l'article 256 de la *Loi de l'impôt sur le revenu* (Canada). («foreign corporation»)

«région déterminée» S'entend de ce qui suit :

- a) la région élargie du Golden Horseshoe, sauf les étendues de biens-fonds situées dans cette région que le ministre prescrit comme étant exclues de la région déterminée;
- b) les autres étendues de biens-fonds que le ministre prescrit comme étant incluses dans la région déterminée. («specified region»)

«région élargie du Golden Horseshoe» L'étendue de biens-fonds qui comprend les zones géographiques des municipalités suivantes :

1. La cité de Barrie.
2. Le comté de Brant.
3. La cité de Brantford.
4. Le comté de Dufferin.
5. La municipalité régionale de Durham.
6. La cité de Guelph.
7. Le comté de Haldimand.
8. La municipalité régionale de Halton.
9. La cité de Hamilton.

10. La cité de Kawartha Lakes.
11. La municipalité régionale de Niagara.
12. Le comté de Northumberland.
13. La cité d'Orillia.
14. La municipalité régionale de Peel.
15. La cité de Peterborough.
16. Le comté de Peterborough.
17. Le comté de Simcoe.
18. La cité de Toronto.
19. La municipalité régionale de Waterloo.
20. Le comté de Wellington.
21. La municipalité régionale de York. («Greater Golden Horseshoe Region»)

2 L'article 2 de la Loi est modifié par adjonction du paragraphe suivant :

Droits supplémentaires : entités étrangères et fiduciaires imposables

(2.1) En plus des droits à acquitter en application du paragraphe (1) et sous réserve de l'article 2.1, quiconque présente à l'enregistrement en Ontario, le 21 avril 2017 ou après cette date, une cession par laquelle un bien-fonds désigné qui est situé dans la région déterminée est cédé à une entité étrangère ou à un fiduciaire imposable acquitte, au moment de la présentation ou préalablement, des droits calculés :

- a) au taux de 15 % de la valeur de la contrepartie versée pour la cession;
- b) si un autre taux d'imposition est prescrit par le ministre pour l'application du présent paragraphe, par multiplication de l'autre taux prescrit par la valeur de la contrepartie versée pour la cession.

3 La Loi est modifiée par adjonction de l'article suivant :

Règles spéciales relatives au par. 2 (2.1)

2.1 (1) Le présent article s'applique à l'égard des droits exigibles en application du paragraphe 2 (2.1).

Idem

(2) Il est entendu que la mention, au présent article, des droits exigibles en application du paragraphe 2 (2.1) s'entend également des droits payables en application du paragraphe 3 (2) qui sont calculés conformément au paragraphe 2 (2.1).

Exonération : conventions antérieures au 21 avril 2017

(3) Il n'est pas exigé de droits en application du paragraphe 2 (2.1) si les conditions suivantes sont réunies :

- a) le bien-fonds est cédé conformément à une convention de vente conclue le 20 avril 2017 ou avant cette date;
- b) toute cession de la convention de vente à une autre personne a été conclue le 20 avril 2017 ou avant cette date.

Exonération : catégories ou exigences prescrites

(4) Il n'est pas exigé de droits en application du paragraphe 2 (2.1) si le bien-fonds est cédé, selon le cas :

- a) à un étranger qui remplit les exigences prescrites par le ministre en matière de résidence, de citoyenneté ou de statut d'immigrant;
- b) à un étranger dont le conjoint remplit les exigences prescrites par le ministre en matière de résidence, de citoyenneté ou de statut d'immigrant;
- c) à une entité étrangère qui appartient à une catégorie d'entités étrangères prescrite par le ministre ou qui remplit les exigences prescrites par le ministre;
- d) conformément aux exigences prescrites par le ministre.

Remise

(5) Le ministre peut accorder une remise des droits acquittés par une personne en application du paragraphe 2 (2.1) lors de la cession d'un bien-fonds s'il est convaincu que le bien-fonds a été cédé à une entité étrangère ou à un fiduciaire imposable qui :

- a) soit remplit les exigences prescrites par le ministre en matière de résidence ou de citoyenneté;

- b) soit remplit les exigences prescrites par le ministre en matière d'inscription à un établissement d'enseignement ou d'emploi;
- c) soit remplit les autres exigences prescrites par le ministre.

Calcul des droits supplémentaires : bien-fonds en partie non désigné

(6) Si, dans le cadre de la cession d'un bien-fonds désigné à l'égard duquel des droits sont exigibles en application du paragraphe 2 (2.1), une partie du bien-fonds qui fait l'objet de la cession est utilisée à des fins autres que l'habitation, le ministre peut, dans la mesure où il le juge possible, établir la portion de la valeur de la contrepartie versée pour la cession qui est raisonnablement imputable au bien-fonds affecté à l'habitation unifamiliale. Malgré le paragraphe 2 (2.1), la personne qui présente la cession à l'enregistrement n'est alors tenue d'acquitter les droits supplémentaires imposés aux termes de ce paragraphe que sur ce seul montant.

4 (1) Le paragraphe 3 (4) de la Loi est modifié par adjonction de «Sous réserve du paragraphe (4.1)» au début du paragraphe.

(2) L'article 3 de la Loi est modifié par adjonction du paragraphe suivant :

Exception : responsabilité solidaire pour les droits prévus au par. 2 (2.1)

(4.1) Si plusieurs personnes acquièrent un intérêt à titre bénéficiaire dans un bien-fonds, ou si l'intérêt à titre bénéficiaire dans un bien-fonds de plusieurs personnes augmente du fait de l'aliénation, chacune de ces personnes est solidairement responsable d'acquitter le montant des droits imposés aux termes du paragraphe (2) qui a été calculé au taux prévu au paragraphe 2 (2.1).

5 Le paragraphe 5.0.1 (1) de la Loi est abrogé et remplacé par ce qui suit :

Renseignements supplémentaires

(1) Le cessionnaire, dans le cadre d'une cession ou d'une disposition à l'égard de laquelle une déclaration ou un affidavit est exigé en vertu de l'article 5, fournit au ministre, sous la forme et de la manière qu'approuve celui-ci, les renseignements supplémentaires prescrits sur le cessionnaire et sur la cession ou l'aliénation.

6 La Loi est modifiée par adjonction de l'article suivant :

Infraction : affirmations fausses ou trompeuses

5.0.3 Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$ quiconque fait, ou aide à faire, dans une déclaration ou un affidavit exigés en vertu de l'article 5 afin de déterminer les droits éventuels à acquitter en application du paragraphe 2 (2.1), une affirmation qui, au moment et dans les circonstances où elle est faite, est fausse ou trompeuse sur des faits substantiels, ou qui omet tout fait substantiel la rendant ainsi fausse ou trompeuse.

7 Le paragraphe 22 (1.1) de la Loi est abrogé et remplacé par ce qui suit :

Règlements

(1.1) Le ministre peut, par règlement :

- a) prescrire les biens-fonds qui sont compris dans la définition de «bien-fonds désigné»;
- b) prescrire les étendues de bien-fonds situées dans la région élargie du Golden Horseshoe qui sont exclues de la définition de «région déterminée»;
- c) prescrire les étendues de bien-fonds qui sont comprises dans la définition de «région déterminée»;
- d) prescrire un autre taux d'imposition pour l'application du paragraphe 2 (2.1);
- e) prescrire des catégories d'entités étrangères et prescrire les exigences à remplir pour obtenir l'exonération prévue au paragraphe 2.1 (4);
- f) prescrire les exigences en matière de citoyenneté, de résidence, d'inscription à un établissement d'enseignement, d'emploi ou autres exigences à remplir pour obtenir la remise prévue au paragraphe 2.1 (5);
- g) prévoir le paiement d'intérêts sur toute remise de droits autorisée par le paragraphe 2.1 (5) et prescrire le taux de ces intérêts et leur mode de calcul;
- h) définir «avoir été propriétaire» pour l'application de la définition de «acheteur» au paragraphe 9.2 (1).

Entrée en vigueur

8 La présente annexe entre en vigueur le jour où la Loi de 2017 sur les mesures budgétaires (stabilité des prix du logement et crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun) reçoit la sanction royale.

ANNEXE 2
LOI DE 2007 SUR LES IMPÔTS

1 (1) Le paragraphe 84 (1) de la *Loi de 2007 sur les impôts* est modifié par adjonction de la disposition suivante :

14.1 Le crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun prévu à l'article 103.0.1.

(2) Le paragraphe 84 (2.1) de la *Loi* est modifié par adjonction de la disposition suivante :

1.1 Le crédit d'impôt visé à la disposition 14.1 du paragraphe (1), à l'égard des années d'imposition qui se terminent après le 31 décembre 2016.

(3) Le paragraphe 84 (3) de la *Loi* est modifié par remplacement de «14, 15» par «14, 14.1, 15» dans le passage qui précède l'alinéa a).

2 La *Loi* est modifiée par adjonction de l'article suivant :

Crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun

Définitions

103.0.1 (1) Sous réserve des règlements pris par le ministre des Finances, les définitions qui suivent s'appliquent au présent article.

«carte de paiement électronique admissible» S'entend, sous réserve du paragraphe (2), de toute carte de paiement électronique délivrée par un organisme de transport ontarien admissible ou pour son compte si les conditions suivantes sont réunies :

- a) l'organisme de transport ontarien admissible enregistre le coût et l'utilisation de la carte et remet un reçu à cet égard;
- b) la carte de paiement électronique reconnaît le droit du particulier titulaire ou propriétaire de la carte d'utiliser les services ontariens de transport en commun d'un organisme de transport ontarien admissible. («eligible electronic payment card»)

«entité déterminée» Selon le cas :

- a) division, service ou organisme du gouvernement de l'Ontario ou d'une municipalité de l'Ontario dont la mission principale est d'offrir des services ontariens de transport en commun;
- b) personne qui fournit des services ontariens de transport en commun pour le compte d'une personne visée à l'alinéa a);
- c) fournisseur de services de transport adapté. («specified entity»)

«fournisseur de services de transport adapté» S'entend au sens de la partie IV du Règlement de l'Ontario 191/11 (Normes d'accessibilité intégrées) pris en vertu de la *Loi de 2005 sur l'accessibilité pour les personnes handicapées de l'Ontario*. («specialized transportation service provider»)

«laissez-passer de transport en commun admissible» S'entend, sous réserve du paragraphe (2), du document délivré par un organisme de transport ontarien admissible ou pour son compte qui fait état du droit du particulier titulaire ou propriétaire du document d'utiliser les services ontariens de transport en commun d'un organisme de transport ontarien admissible un nombre illimité de fois au cours d'une période d'au moins un jour. («eligible public transit pass»)

«mode prescrit admissible d'accès au transport» Mode, prescrit par le ministre, qui donne à un particulier le droit d'utiliser — autrement qu'au moyen d'un paiement comptant admissible pour services de transport adapté, d'une carte de paiement électronique admissible, d'un laissez-passer de transport en commun admissible ou d'un ticket de paiement à usage unique admissible — les services ontariens de transport en commun d'un organisme de transport ontarien admissible précisé par le ministre. («eligible prescribed transit access method»)

«organisme de transport ontarien admissible» Entité déterminée qui est autorisée, sous le régime d'une loi du Canada ou de l'Ontario, à exploiter — par l'intermédiaire d'un établissement stable situé en Ontario — une entreprise qui consiste à fournir des services ontariens de transport en commun. («qualified Ontario transit organization»)

«paiement comptant admissible pour services de transport adapté» S'entend, sous réserve du paragraphe (2), du paiement fait à un organisme de transport ontarien admissible pour des services de transport adapté, à l'exclusion du paiement fait pour une carte de paiement électronique admissible, un laissez-passer de transport en commun admissible, un mode prescrit admissible d'accès au transport ou un ticket de paiement à usage unique admissible, qui remplit les conditions suivantes :

- a) un reçu détaillé est délivré à son égard;
- b) il permet au particulier qui l'a effectuée d'utiliser une seule fois les services de transport adapté d'un organisme de transport ontarien admissible. («eligible cash payment for specialized transportation services»)

«particulier admissible» Relativement à une année d'imposition, s'entend du particulier qui n'est pas une fiducie et qui remplit les conditions suivantes :

- a) il résidait en Ontario le dernier jour de l'année;
- b) il était âgé d'au moins 65 ans le dernier jour de l'année d'imposition précédente. («eligible individual»)

«services de transport adapté» S'entend au sens de la partie IV du Règlement de l'Ontario 191/11 (Normes d'accessibilité intégrées) pris en vertu de la *Loi de 2005 sur l'accessibilité pour les personnes handicapées de l'Ontario*. («specialized transportation services»)

«services ontariens de transport en commun» Services offerts au grand public — à l'exclusion d'un service de location ou d'un service qui fait partie d'une visite touristique — qui consistent à transporter des particuliers entre un endroit de l'Ontario et un autre endroit par autobus, autocar, métro, train ou tramway et à l'égard desquels il est raisonnable de s'attendre à ce que ces particuliers reviennent quotidiennement à leur point de départ. S'entend en outre des services de transport adapté, même s'ils ne sont pas offerts au grand public ou qu'ils sont offerts par un autre mode que l'autobus, l'autocar, le métro, le train ou le tramway. («Ontario public transit services»)

«ticket de paiement à usage unique admissible» S'entend, sous réserve du paragraphe (2), du document délivré par un organisme de transport ontarien admissible ou pour son compte qui remplit les conditions suivantes :

- a) un reçu détaillé est délivré à son égard;
- b) il fait état du droit du particulier titulaire ou propriétaire du document d'utiliser une seule fois les services ontariens de transport en commun d'un organisme de transport ontarien admissible. («eligible single-use payment ticket»)

Règles relatives aux documents délivrés aux personnes âgées par les organismes de transport ontariens admissibles

(2) Les règles suivantes s'appliquent dans le cadre du présent article :

1. Si un organisme de transport ontarien admissible accepte, pour des services de transport adapté, des paiements du genre visé dans la définition de «paiement comptant admissible pour services de transport adapté» au paragraphe (1) et qu'il le fait en percevant un tarif réservé aux particuliers qui sont des personnes âgées, le paiement que la personne âgée lui fait ne constitue un paiement comptant admissible pour services de transport adapté pour l'application du présent article que s'il s'agit du paiement d'un tarif réservé aux particuliers qui sont des personnes âgées.
2. Si des documents visés à la définition de «laissez-passer de transport en commun admissible» au paragraphe (1) sont délivrés par un organisme de transport ontarien admissible ou pour son compte et qu'ils sont réservés à l'usage des particuliers qui sont des personnes âgées, le document d'une personne âgée qui est délivré par un organisme de transport ontarien admissible ou pour son compte ne constitue un laissez-passer de transport en commun admissible pour l'application du présent article que s'il est réservé à l'usage des particuliers qui sont des personnes âgées.
3. Si une carte de paiement électronique visée à la définition de «carte de paiement électronique admissible» au paragraphe (1) est délivrée par un organisme de transport ontarien admissible ou pour son compte et qu'elle autorise le paiement d'un tarif spécial pour personnes âgées, la carte de paiement électronique d'une personne âgée ne constitue une carte de paiement électronique admissible pour l'application du présent article que si elle ne peut servir qu'au paiement du tarif spécial pour personnes âgées.
4. Si des documents visés à la définition de «ticket de paiement à usage unique admissible» au paragraphe (1) sont délivrés par un organisme de transport ontarien admissible ou pour son compte et qu'ils sont réservés à l'usage des particuliers qui sont des personnes âgées, le document d'une personne âgée qui est délivré par un organisme de transport ontarien admissible ou pour son compte ne constitue un ticket de paiement à usage unique admissible pour l'application du présent article que s'il est réservé à l'usage des particuliers qui sont des personnes âgées.
5. La question de savoir si une personne est une personne âgée pour le paiement d'un tarif réservé aux particuliers qui sont des personnes âgées est laissée à la discrétion de l'organisme de transport ontarien admissible qui accepte le paiement.
6. La question de savoir si une personne est une personne âgée en ce qui concerne l'utilisation d'un laissez-passer, d'une carte ou d'un ticket réservés à l'usage des particuliers qui sont des personnes âgées est laissée à la discrétion de l'organisme de transport ontarien admissible qui délivre le laissez-passer, la carte ou le ticket.

Crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun

(3) Le particulier qui est un particulier admissible pour une année d'imposition qui se termine après le 31 décembre 2016 peut demander un montant à l'égard de son crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun jusqu'à concurrence du moindre des montants suivants :

- a) 225 \$ pour une année d'imposition qui se termine après le 31 décembre 2016, mais avant le 1^{er} janvier 2018, et 450 \$ pour une année d'imposition qui se termine après le 31 décembre 2017;
- b) le montant calculé selon la formule suivante :

$$A \times (B - C)$$

où :

«A» représente 15 %;

«B» représente le total des sommes représentant chacune la partie du coût de l'un ou l'autre des modes de paiement mentionnés au paragraphe (4) qui est attribuable à l'utilisation par le particulier de services ontariens de transport en commun au cours de la période prévue au paragraphe (5);

«C» le total des sommes représentant chacune le montant d'un remboursement ou d'une allocation ou de toute autre forme d'aide que le particulier a ou avait le droit de recevoir à l'égard d'un montant inclus dans le calcul de la valeur de l'élément «B», à l'exclusion d'une somme qui est incluse dans le calcul du revenu de ce particulier pour une année d'imposition et qui n'est pas déductible dans le calcul de son revenu imposable.

Modes de paiement

(4) Les modes de paiement visés dans la description de l'élément «B» au paragraphe (3) sont les suivants :

- a) un paiement comptant admissible pour services de transport adapté;
- b) une carte de paiement électronique admissible;
- c) un laissez-passer de transport en commun admissible;
- d) un ticket de paiement à usage unique admissible;
- e) le titre de transport d'un mode prescrit admissible d'accès au transport.

Période d'utilisation

(5) La période d'utilisation visée dans la description de l'élément «B» au paragraphe (3) est :

- a) à l'égard d'une année d'imposition qui se termine après le 31 décembre 2016, mais avant le 1^{er} janvier 2018, la période allant du 1^{er} juillet 2017 au 31 décembre 2017;
- b) à l'égard d'une année d'imposition qui se termine après le 31 décembre 2017, l'année.

Résidence pendant une partie de l'année seulement

(6) Le particulier qui est un particulier admissible pour une année d'imposition et qui réside au Canada pendant une partie de l'année seulement n'a le droit de demander pour l'année que le montant qu'il aurait le droit de demander pour l'année en vertu du présent article et qu'il est raisonnable de considérer comme étant entièrement applicable à une période de l'année tout au long de laquelle il résidait au Canada, calculé comme si cette période constituait l'année d'imposition entière. Toutefois, le montant que le particulier peut ainsi demander ne peut pas excéder celui qu'il aurait eu le droit de demander en vertu du présent article s'il avait résidé au Canada tout au long de l'année.

Faillite

(7) Le particulier qui devient un failli au cours d'une année civile n'a le droit de demander, pour chaque année d'imposition qui se termine pendant cette année civile, que les montants qu'il a le droit de demander en vertu du présent article pour l'année d'imposition et qu'il est raisonnable de considérer comme étant entièrement applicables à l'année d'imposition. Le total des sommes que le particulier peut demander en vertu du présent article pour toutes ses années d'imposition se terminant pendant l'année civile ne peut pas excéder le montant total qu'il aurait eu le droit de demander en vertu du présent article à l'égard de l'année civile s'il n'était pas devenu un failli.

Règlements du ministre

(8) Le ministre des Finances peut, par règlement :

- a) prévoir que des organismes sont réputés être des organismes de transport ontariens admissibles malgré la définition du paragraphe (1);
- b) préciser le sens des termes définis au paragraphe (1).

3 La disposition 1 de l'article 176 de la Loi est modifiée par adjonction de la sous-disposition suivante :

xiv.i Le crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun prévu à l'article 103.0.1.

Entrée en vigueur

4 La présente annexe entre en vigueur le jour où la *Loi de 2017 sur les mesures budgétaires (stabilité des prix du logement et crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun)* reçoit la sanction royale.

NOTE EXPLICATIVE

*La note explicative, rédigée à titre de service aux lecteurs du projet de loi 134, ne fait pas partie de la loi.
Le projet de loi 134 a été édicté et constitue maintenant le chapitre 17 des Lois de l'Ontario de 2017.*

Le projet de loi met en oeuvre certaines mesures énoncées dans le Budget de l'Ontario de 2017. Des modifications sont apportées à la *Loi sur les droits de cession immobilière* et à la *Loi de 2007 sur les impôts*. Les principaux éléments du projet de loi sont exposés ci-dessous.

ANNEXE 1
LOI SUR LES DROITS DE CESSIION IMMOBILIÈRE

L'article 2 de la *Loi sur les droits de cession immobilière* est modifié pour prévoir que des droits supplémentaires doivent être acquittés lors de certaines cessions de biens-fonds par lesquelles un bien-fonds désigné situé dans une région déterminée est cédé à une entité étrangère ou à un fiduciaire imposable. Le nouvel article 2.1 énonce les règles spéciales qui régissent les droits supplémentaires et prévoit des exonérations et des remises. Des modifications complémentaires sont également apportées à la Loi.

ANNEXE 2
LOI DE 2007 SUR LES IMPÔTS

L'annexe modifie la *Loi de 2007 sur les impôts* afin de mettre en application le crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun.

Le crédit d'impôt de l'Ontario aux personnes âgées pour le transport en commun est prévu au nouvel article 103.0.1 de la Loi. Il s'agit d'un crédit remboursable qui s'appliquera pour les années d'imposition 2017 et suivantes. Le crédit maximal offert est de 225 \$ pour l'année d'imposition 2017 et de 450 \$ pour les années d'imposition suivantes. Des modifications corrélatives sont apportées aux articles 84 et 176 de la Loi.

CHAPTER 18

An Act to amend the Representation Act, 2015 and certain other Acts

Assented to October 25, 2017

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

REPRESENTATION ACT, 2015

1 (1) Paragraph 1 of subsection 2 (1) of the *Representation Act, 2015* is amended by striking out “11 northern electoral districts” and substituting “13 northern electoral districts”.

(2) Paragraph 2 of subsection 2 (1) of the Act is amended by striking out “11 northern electoral districts” and substituting “13 northern electoral districts”.

(3) Section 2 of the Act is amended by adding the following subsection:

Review, “Mushkegowuk-James Bay”

(4) The Attorney General shall undertake a review of the name of the Mushkegowuk-James Bay electoral district, in consultation with affected communities, and report any recommendations respecting the name to the Legislature.

2 The Act is amended by adding the following section:

Advertisement of electoral districts

4.1 In the three months following the day the *Representation Statute Law Amendment Act, 2017* receives Royal Assent, the Chief Electoral Officer shall publicly advertise the creation of the four new northern electoral districts created by that Act in those electoral districts.

3 The Schedule to the Act is repealed and the following substituted:

SCHEDULE 13 NORTHERN ELECTORAL DISTRICTS

(Paragraph 1 of subsection 2 (1))

1. ALGOMA-MANITOULIN

Consisting of:

FIRSTLY:

All of the Territorial District of Algoma, EXCEPTING the City of Sault Ste. Marie and that part of the Rankin Location Indian Reserve No. 15D lying within the limits of the City of Sault Ste. Marie.

SECONDLY:

All those parts of the Territorial District of Sudbury described as:

- (i) All that part lying west of the easterly limit of the geographic townships of Shenango, Lemoine, Carty, Pinogami, Biggs, Rollo, Swayze, Cunningham, Blamey, Shipley, Singapore, Burr and Edighoffer;
- (ii) All that part lying south and west of a line described as follows: Commencing at the northwest corner of the geographic township of Acheson; thence easterly along the north boundary of the geographic townships of Acheson, Venturi and Ermatinger to the northeast corner of the geographic township of Ermatinger; thence southerly along the east boundary of the geographic townships of Ermatinger and Lotten to the westerly limit of the former Regional Municipality of Sudbury (2000); thence generally southerly along the west limit of said former regional municipality to the northeast corner of the geographic township of Foster; thence southerly along the east boundary of the geographic townships of Foster and Curtin to the southeast corner of the geographic township of Curtin; thence easterly along the south limit of the geographic townships of Roosevelt, Hansen and Goschen to the southeast corner of the geographic township of Goschen; thence southerly along the west limit of the geographic township of Sale to the southwest corner thereof; thence easterly along the south limit of the geographic township of Sale to the southeast corner thereof; thence southerly along the west limit of the

geographic townships of Kilpatrick and Travers and continuing southerly to the northeast corner of the Territorial District of Manitoulin on the west limit of the Territorial District of Sudbury.

THIRDLY:

All that part of the Territorial District of Thunder Bay lying south and east of a line described as follows: Commencing at the southwest corner of the geographic Township of Downer; thence west astronomically to the intersection of a line drawn south astronomically from the southeast corner of the geographic Township of Bain; thence south astronomically to the intersection of a line drawn west astronomically from the southwest corner of the geographic township of McGill; thence east astronomically to longitude 86°00'W; thence southerly along longitude 86°00'W to the White River; thence generally westerly along said river to the northerly shore of Lake Superior; thence S45°00'W astronomically to the international boundary between Canada and the United States of America.

FOURTHLY:

All of the Territorial District of Manitoulin.

2. KENORA-RAINY RIVER**Consisting of:****FIRSTLY:**

All that part of the Territorial District of Kenora lying south of a line described as follows: Commencing at the intersection of a railway right-of-way and the east limit of the Territorial District of Kenora at approximate latitude 50°14'20"N; thence southwesterly along said railway right-of-way to its intersection with the east limit of the Municipality of Sioux Lookout; thence generally southerly and westerly along the east and south limits of said Municipality to the southwest corner thereof; thence northerly along the west limit of said Municipality to the northeast corner of the geographic township of Lomond; thence westerly along the north limit of the geographic townships of Lomond, McIlraith, Breithaupt, Daniel, Rowell, Ladysmith, Wauchope, Buller and Redvers to the northwest corner of the geographic township of Redvers; thence southerly to the southwest corner thereof; thence westerly and southerly along the north and west limit of the geographic township of Smellie to the southwest corner thereof; thence westerly along the north limits of the geographic townships of Bridges, Tustin, MacNicol and Jackman to the easterly water's edge of Silver Lake; thence westerly on the production of the north limit of the geographic township of Jackman to its intersection of the northerly production of the east limit of lot 1, concession 3, of the geographic township of Pettypiece; thence northerly to the southeast limit of lot 1, concession 5, geographic township of Pettypiece and continuing northerly along the east limit of said township to the northeast corner thereof; thence westerly along the north limit of the geographic township of Pettypiece to the east limit of the geographic township of Redditt; thence northerly, westerly and southerly along the east, north and west limits of the geographic township of Redditt to the north limit of the City of Kenora; thence westerly along the north limit of said City of Kenora to the northeast corner of The Dalles I.R. 38C; thence generally northwesterly and southerly along the north and west limits of The Dalles I.R. 38C to an intersection with the easterly production of the north limit of the geographic township of Umbach; thence westerly along said production to the southeast corner of the Minaki Local Services Board Area as described in the Schedule to Ontario Regulation 212/83; thence generally northerly, westerly and southerly along the east, north and west exterior limits of said Local Services Board Area to the north limit of the geographic township of Umbach; thence westerly along the north limit of the geographic townships of Umbach and Pelican to the southeast corner of the geographic township of Rudd; thence northerly and westerly along the east and north limit of the geographic township of Rudd to the northeast corner of the geographic township of Noyon; thence westerly along the north limit of the geographic township of Noyon to the interprovincial boundary between Ontario and Manitoba.

SECONDLY:

All that part of the Territorial District of Rainy River lying west of a line described as follows: Commencing at the intersection of the south limit of said district with a meridian line known as the 4th Meridian Line, surveyed by Phillips and Benner, Ontario Land Surveyors, 1926; thence northerly along said meridian line to the south limit of the Town of Atikokan; thence westerly along said south limit of said town to the southwest corner thereof; thence northerly along the west limit of said town and its production northerly to the north limit of the Territorial District of Rainy River.

3. KIIWETINOONG**Consisting of:****FIRSTLY:**

All of the Territorial District of Kenora, EXCEPTING those parts described as follows:

- (i) That part lying east of a line described as follows: Commencing at the most northerly northeast corner of the Territorial District of Thunder Bay; thence northerly along the production of the east limit of the Territorial District of Thunder Bay to latitude 54°00'N; thence west astronomically to the Winisk River; thence northerly along the Winisk River to the southern boundary of Winisk I.R. No. 90; thence westerly, northerly and easterly along the south, west and north exterior limits of Winisk I.R. No. 90 to where it intersects the Winisk River; thence generally northerly and easterly along the Winisk River to an intersection with the northerly production of the east limit of the Territorial District of Thunder Bay; thence northerly along the production of the east limit of the Territorial District of Thunder Bay to the north limit of the Province of Ontario;
- (ii) All that part lying south of a line described as follows: Commencing at the intersection of a railway right-of-way and the east limit of the Territorial District of Kenora at approximate latitude 50°14'20"N; thence southwesterly along said railway right-of-way to its intersection with the east limit of the Municipality of Sioux Lookout; thence generally southerly and westerly along the east and south limits of said Municipality to the southwest corner thereof; thence northerly along the west limit of said Municipality to the northeast corner of the geographic township of Lomond; thence westerly along the north limit of the geographic townships of Lomond, McIlraith, Breithaupt, Daniel, Rowell, Ladysmith, Wauchope, Buller and Redvers to the northwest corner of the geographic township of Redvers; thence southerly to the southwest corner thereof; thence westerly and southerly along the north and west limit of the geographic township of Smellie to the southwest corner thereof; thence westerly along the north limits of the geographic townships of Bridges, Tustin, MacNicol and Jackman to the easterly water's edge of Silver Lake; thence westerly on the production of the north limit of the geographic township of Jackman to its intersection of the northerly production of the east limit of lot 1, concession 3, of the geographic township of Pettypiece; thence northerly to the southeast limit of lot 1, concession 5, geographic township of Pettypiece and continuing northerly along the east limit of said township to the northeast corner thereof; thence westerly along the north limit of the geographic township of Pettypiece to the east limit of the geographic township of Redditt; thence northerly, westerly and southerly along the east, north and west limits of the geographic township of Redditt to the north limit of the City of Kenora; thence westerly along the north limit of said City of Kenora to the northeast corner of The Dalles I.R. 38C; thence generally northwesterly and southerly along the north and west limits of The Dalles I.R. 38C to an intersection with the easterly production of the north limit of the geographic township of Umbach; thence westerly along said production to the southeast corner of the Minaki Local Services Board Area as described in the Schedule to Ontario Regulation 212/83; thence generally northerly, westerly and southerly along the east, north and west exterior limits of said Local Services Board Area to the north limit of the geographic township of Umbach; thence westerly along the north limit of the geographic townships of Umbach and Pelican to the southeast corner of the geographic township of Rudd; thence northerly and westerly along the east and north limit of the geographic township of Rudd to the northeast corner of the geographic township of Noyon; thence westerly along the north limit of the geographic township of Noyon to the interprovincial boundary between Ontario and Manitoba.

SECONDLY:

All that part of the Territorial District of Thunder Bay lying north and west of a line described as follows: Commencing at the intersection of the west limit of the Territorial District of Thunder Bay with a base line, known as the 6th Base Line or Ross's Base Line, surveyed by K.G. Ross, Ontario Land Surveyor, 1923; thence easterly along said base line to the southeast corner of the geographic Township of Bertrand; thence northerly along the east boundary of the geographic townships of Bertrand, McLaurin, Furlonge, Fletcher and Bulmer to the northeast corner of the geographic Township of Bulmer; thence northerly along a meridian line, known as Phillips and Benner's Meridian Line, surveyed by Phillips and Benner, Ontario Land Surveyors, 1923, to the north limit of the Territorial District of Thunder Bay.

4. MUSHKEGOWUK-JAMES BAY

Consisting of: All of the Territorial District of Cochrane, EXCEPTING those parts described as follows:

FIRSTLY:

- (i) Commencing at the southeast corner of the City of Timmins on the south limit of the Territorial District of Cochrane, thence generally northerly and westerly along the easterly and northerly limits of said city to the southeast corner of the geographic township of Prosser; thence northerly along the east limit of the geographic townships of Prosser, Lucas, Beck and Ottawa to the northeast corner of the geographic township of Ottawa; thence westerly and northerly along the south and west limits of the geographic township of Clute and continuing northerly along the west limit of the geographic township of Leitch to the northwest corner thereof; thence easterly along the south limit of the geographic townships of Marven, Thorning, Potter, Sangster, Bragg, Newman, Tomlinson, Hurtubise and St. Laurent to the interprovincial boundary between Ontario and Quebec.
- (ii) All of the City of Timmins.

SECONDLY:

All that part of the Territorial District of Kenora lying east of a line described as follows: Commencing at the most northerly northeast corner of the Territorial District of Thunder Bay; thence northerly along the production of the east limit of the Territorial District of Thunder Bay to latitude 54°00'N; thence west astronomically to the Winisk River; thence northerly along the Winisk River to the southern boundary of Winisk IR No. 90; thence westerly, northerly and easterly along the south, west and north exterior limits of Winisk IR No. 90 to where it intersects the Winisk River; thence generally northerly and easterly along the Winisk River to an intersection with the northerly production of the east limit of the Territorial District of Thunder Bay; thence northerly along the production of the east limit of the Territorial District of Thunder Bay to the north limit of the Province of Ontario.

5. NICKEL BELT**Consisting of:****FIRSTLY:**

All that part of the Territorial District of Timiskaming lying west of the easterly limit of the geographic townships of Douglas and Geikie.

SECONDLY:

All of the Territorial District of Sudbury. EXCEPTING those parts described as follows, other than that part forming Wahnapiatae Indian Reserve No. 11:

- (i) All that part lying west of the easterly limit of the geographic townships of Shenango, Lemoine, Carty, Pinogami, Biggs, Rollo, Swayze, Cunningham, Blamey, Shipley, Singapore, Burr and Edighoffer;
- (ii) All that part lying south and west of a line described as follows: Commencing at the northwest corner of the geographic township of Acheson; thence easterly along the north boundary of the geographic townships of Acheson, Venturi and Ermatinger to the northeast corner of the geographic township of Ermatinger; thence southerly along the east boundary of the geographic townships of Ermatinger and Totten to the westerly limit of the former Regional Municipality of Sudbury (2000); thence generally southerly along the west limit of said former regional municipality to the northeast corner of the geographic township of Foster; thence southerly along the east limit of the geographic townships of Foster and Curtin to the southeast corner of the geographic township of Curtin; thence easterly along the south limit of the geographic townships of Roosevelt, Hansen and Goschen to the southeast corner of the geographic township of Goschen; thence southerly along the west limit of the geographic township of Sale to the southwest corner thereof; thence easterly along the south limit of the geographic township of Sale to the southeast corner thereof; thence southerly along the west limit of the geographic townships of Kilpatrick and Travers and continuing southerly to the northeast corner of the Territorial District of Manitoulin on the west limit of the Territorial District of Sudbury;
- (iii) All that part lying easterly of a line described as follows: Commencing at the northwest corner of the geographic Township of Stull; thence southerly along the west limit of the geographic townships of Stull, Valin, Cotton, Beresford and Creelman to the north limit of the former Regional Municipality of Sudbury (as existed on December 31, 1996); thence generally easterly and southerly along the north and east limits of said former municipality and continuing southerly along the east limit of the geographic township of Dryden to the northwest corner of the geographic township of Hawley; thence southerly and easterly along the west and south limits of the geographic township of Hawley to the northeast corner of the geographic township of Hendrie; thence southerly along the east limit of the geographic townships of Hendrie and Hoskin to the north limit of the geographic township of Delamere; thence easterly along the north limit of the geographic township of Delamere to the northwest corner of the former Municipal Township of Cosby, Mason and Martland (as existed on December 31, 1996); thence generally southerly and easterly along the west and south limits of the said former municipal township to the south limit of the Territorial District of Sudbury;
- (iv) All that part of the former City of Sudbury (as existed on December 31, 1996), lying north of a line described as follows: Commencing at the intersection of the east limit of said former city and Highway No. 69; thence westerly along said highway to Long Lake Road; thence southerly along said road to the north limit of the geographic township of Broder; thence westerly along the north limit of said geographic township to the west limit of said former city.

6. NIPISSING**Consisting of:****FIRSTLY:**

All that part of the Territorial District of Nipissing described as follows: Commencing at the southeast corner of the Territorial District of Parry Sound on the west limit of the Territorial District of Nipissing; thence generally easterly and

southerly along the west and south limits of the Territorial District of Nipissing to the southwest corner of the geographic township of Sproule; thence easterly and northerly along the south and east limits of said geographic township to the southeast corner of the geographic township of Bower; thence northerly along the east limit of the geographic townships of Bower and Freswick to the northeast corner of the geographic township of Freswick; thence westerly, northerly and easterly along the south, west and north limits of the geographic township of Lister to the southeast corner of the geographic township of Boyd; thence northerly along the east limit of the geographic township of Boyd to the south limit of the Municipal Township of Papineau-Cameron; thence easterly and northerly along the south and east limits of said municipal township to the interprovincial boundary between Ontario and Quebec; thence generally northwesterly along said interprovincial boundary to the intersection of the production easterly of the south limit of the geographic township of Eddy; thence westerly along said production and the south limit of the geographic townships of Eddy and Jocko to the northeast corner of the geographic township of Mulock; thence southerly along the east limit of the geographic township of Mulock to the northeast corner of the geographic township of Widdifield; thence westerly along the north limit of the geographic townships of Widdifield, Commanda and Beaucage to the northeast corner of the geographic township of Pedley; thence southerly along the east limit of the geographic township of Pedley to the southeast corner thereof; thence westerly along the south limit of the geographic township of Pedley to the southwest corner thereof; thence southerly along the east limit of the geographic township of Springer and its production southerly to the middle of Lake Nipissing; thence S45° 00' E astronomically to the north limit of the Territorial District of Parry Sound; thence generally easterly and southerly along the north and east limits of the Territorial District of Parry Sound to the point of commencement.

SECONDLY:

All that part of the Territorial District of Parry Sound consisting of the Municipal Township of Nipissing, the Municipality of Callander and the Municipality of Powassan.

7. PARRY SOUND-MUSKOKA

Consisting of:

FIRSTLY:

All of the Territorial District of Parry Sound, EXCEPTING the Municipal Township of Nipissing, the Municipality of Callander, and the Municipality of Powassan.

SECONDLY:

All of The District Municipality of Muskoka.

8. SAULT STE. MARIE

Consisting of all of the City of Sault Ste. Marie and that part of the Rankin Location Indian Reserve No. 15D lying within the limits of the City of Sault Ste. Marie.

9. SUDBURY

Consisting of that part of the former City of Sudbury (as existed on December 31, 1996) lying north of a line described as follows: Commencing at the intersection of the east limit of said former city and Highway No. 69; thence westerly along said highway to Long Lake Road; thence southerly along said road to the north limit of the geographic township of Broder; thence westerly along the north limit of said geographic township to the west limit of said former city.

10. THUNDER BAY-ATIKOKAN

Consisting of:

FIRSTLY:

All that part of the Territorial District of Rainy River lying east of a line described as follows: Commencing at the intersection of the south limit of said district with a meridian line known as the 4th Meridian Line, surveyed by Phillips and Benner, Ontario Land Surveyors, 1926; thence northerly along said meridian line to the south limit of the Town of Atikokan; thence westerly along said south limit of said town to the southwest corner thereof; thence northerly along the west limit of said town and its production northerly to the north limit of the Territorial District of Rainy River.

SECONDLY:

All that part of the Territorial District of Thunder Bay lying south and west of a line described as follows: Commencing at the intersection of the west limit of the Territorial District of Thunder Bay with a base line, known as the 6th Base Line or Ross's Base Line, surveyed by K. G. Ross, Ontario Land Surveyor, 1923; thence easterly along said base line to longitude 90° 00' W, thence southerly along longitude 90° 00' W to its most southerly intersection with the Dog River; thence generally southerly and easterly along said river to the westerly shore of Dog Lake, thence generally southerly along the

westerly shore of Dog Lake to the north limit of the geographic township of Fowler; thence westerly and southerly along the north and west limits of the geographic township of Fowler to the north limit of the geographic township of Forbes; thence easterly along the north limit of the geographic township of Forbes to the Kaministiquia River; thence generally southerly along the Kaministiquia River to the north limit of the geographic township of Oliver; thence easterly along the north limit of the geographic township of Oliver to the northwest corner of the City of Thunder Bay; thence easterly and southerly along the north and east limits of said city to Highway No. 17; thence southwesterly along Highway No. 17 to Balsam Street; thence northerly along Balsam Street to Wardrope Avenue; thence westerly along Wardrope Avenue to the most easterly hydro-electric transmission line near Hildale Road; thence generally southerly along said transmission line to Pioneer Drive; thence easterly along Pioneer Drive to Valley Street; thence southeasterly along Valley Street to Highway No. 17; thence southerly along Highway No. 17 to the Harbour Expressway; thence easterly along the Harbour Expressway, Main Street and its easterly production to the easterly limit of the City of Thunder Bay; thence generally southerly, easterly and southerly along the easterly limit of the City of Thunder Bay to the southeast angle thereof on the north limit of the Municipality of Neebing; thence southeasterly along the north limit of said municipality to the international boundary between Canada and the United States of America.

11. THUNDER BAY-SUPERIOR NORTH

Consisting of all of the Territorial District of Thunder Bay EXCEPTING those parts described as follows:

- (i) All that part lying west of a line described as follows: Commencing at the intersection of the northerly limit of the Territorial District of Thunder Bay with a meridian line, known as Phillips and Benner's Meridian Line, surveyed by Phillips and Benner, Ontario Land Surveyors, 1923; thence southerly along said meridian line to the northeast corner of the geographic township of Bulmer; thence southerly along the east limit of the geographic townships of Bulmer, Fletcher, Furlonge, McLaurin and Bertrand to the southeast corner of the geographic Township of Bertrand; thence easterly along a base line, known as the 6th Base Line or Ross's Base Line, surveyed by K.G. Ross, Ontario Land Surveyor, 1923, to longitude 90°00'W; thence southerly along longitude 90°00'W to its most southerly intersection with the Dog River; thence generally southerly and easterly along said river to the westerly shore of Dog Lake; thence generally southerly along the westerly shore of Dog Lake to the north limit of the geographic township of Fowler; thence westerly and southerly along the north and west limits of the geographic township of Fowler to the north limit of the geographic township of Forbes; thence easterly along the north limit of the geographic township of Forbes to the Kaministiquia River; thence generally southerly along the Kaministiquia River to the north limit of the geographic township of Oliver; thence easterly along the north limit of the geographic township of Oliver to the northwest corner of the City of Thunder Bay; thence easterly and southerly along the north and east limits of said city to Highway No. 17; thence southwesterly along Highway No. 17 to Balsam Street; thence northerly along Balsam Street to Wardrope Avenue; thence westerly along Wardrope Avenue to the most easterly hydro-electric transmission line near Hildale Road; thence generally southerly along said transmission line to Pioneer Drive; thence easterly along Pioneer Drive to Valley Street; thence southeasterly along Valley Street to Highway No. 17; thence southerly along Highway No. 17 to the Harbour Expressway; thence easterly along the Harbour Expressway, Main Street and its easterly production to the easterly limit of the City of Thunder Bay; thence generally southerly, easterly and southerly along the easterly limit of the City of Thunder Bay to the southeast angle thereof on the north limit of the Municipality of Neebing; thence southeasterly along the north limit of said municipality to the international boundary between Canada and the United States of America;
- (ii) All that part lying south and east of a line described as follows: Commencing at the southwest corner of the geographic Township of Downer, thence west astronomically to the intersection of a line drawn south astronomically from the southeast corner of the geographic Township of Bain; thence south astronomically to the intersection of a line drawn west astronomically from the southwest corner of the geographic township of McGill; thence east astronomically to longitude 86°00'W; thence southerly along longitude 86°00'W to the White River; thence generally westerly along said river to the northerly shore of Lake Superior; thence S45°00'W astronomically to the international boundary between Canada and the United States of America.

12. TIMISKAMING-COCHRANE

Consisting of:

FIRSTLY:

All of the Territorial District of Timiskaming EXCEPTING that part lying west of the east limit of the geographic townships of Douglas and Geikie.

SECONDLY:

All that part of the Territorial District of Cochrane lying east and south of a line described as follows: Commencing at the southeast corner of the City of Timmins on the south limit of the Territorial District of Cochrane; thence generally northerly and westerly along the easterly and northerly limits of said city to the southeast corner of the geographic

township of Prosser; thence northerly along the east limit of the geographic townships of Prosser, Lucas, Beck and Ottaway to the northeast corner of the geographic township of Ottaway; thence westerly and northerly along the south and west limits of the geographic township of Clute and continuing northerly along the west limit of the geographic township of Leitch to the northwest corner thereof; thence easterly along the south limit of the geographic townships of Marven, Thorning, Potter, Sangster, Bragg, Newman, Tomlinson, Hurtubise and St. Laurent to the interprovincial boundary between Ontario and Quebec.

THIRDLY:

All that part of the Territorial District of Sudbury, other than that part forming Wahnapiatae Indian Reserve No. 11, lying easterly of a line described as follows: Commencing at the northwest corner of the geographic Township of Stull; thence southerly along the west limit of the geographic townships of Stull, Valin, Cotton, Beresford and Creelman to the north limit of the former Regional Municipality of Sudbury (as existed on December 31, 1996); thence generally easterly and southerly along the north and east limits of said former municipality and continuing southerly along the east limit of the geographic township of Dryden to the northwest corner of the geographic township of Hawley; thence southerly and easterly along the west and south limits of the geographic township of Hawley to the northeast corner of the geographic township of Hendrie; thence southerly along the east limit of the geographic townships of Hendrie and Hoskin to the north limit of the geographic township of Delamere; thence easterly along the north limit of the geographic township of Delamere to the northwest corner of the former Municipal Township of Cosby, Mason and Martland (as existed on December 31, 1996); thence generally southerly and easterly along the west and south limits of the said former municipal township to the south limit of the Territorial District of Sudbury.

FOURTHLY:

All that part of the Territorial District of Nipissing lying northerly and westerly of a line described as follows: Commencing at the interprovincial boundary at the intersection of the production easterly of the south limit of the geographic township of Eddy; thence westerly along said production and the south limit of the geographic townships of Eddy and Jocko to the northeast corner of the geographic township of Mulock; thence southerly along the east limit of the geographic township of Mulock to the northeast corner of the geographic township of Widdifield; thence westerly along the north limit of the geographic townships of Widdifield, Commanda and Beaucage to the northeast corner of the geographic township of Pedley; thence southerly along the east limit of the geographic township of Pedley to the southeast corner thereof; thence westerly along the south limit of the geographic township of Pedley to the southwest corner thereof; thence southerly along the east limit of the geographic township of Springer and its production southerly to the middle of Lake Nipissing; thence S45°00'E astronomically to the north limit of the Territorial District of Parry Sound.

13. TIMMINS

Consisting of all of the City of Timmins in the Territorial District of Cochrane.

ELECTION FINANCES ACT

4 (1) The definition of “nomination contest period” in subsection 1 (1) of the *Election Finances Act* is amended by striking out “and ends when the candidate for the electoral district is selected” at the end and substituting “and ends three months after the candidate for the electoral district is selected”.

(2) Section 1 of the Act is amended by adding the following subsection:

Transition, nomination contest period

(4) In the case of a nomination contestant whose nomination contest period ended on or after July 1, 2017 and before the *Representation Statute Law Amendment Act, 2017* received Royal Assent, the nomination contest period is instead deemed to have ended three months after the *Representation Statute Law Amendment Act, 2017* received Royal Assent.

(3) Subsection 1 (4) of the Act, as enacted by subsection (2), is repealed.

(4) Subsection 17 (3) of the Act is repealed and the following substituted:

Contribution to dissolved constituency association

(3) The following rules apply if, after a constituency association is dissolved under section 44.2 or 44.6, it is determined that a contribution received by or on behalf of the constituency association must be returned under subsection (1) or paid to the Chief Electoral Officer under subsection (2):

- 1 The entity or entities to which the assets and liabilities of the dissolved constituency association were transferred in accordance with subsection 44.2 (6) or 44.6 (6) are liable for the payment required by subsection (1) or (2).

2. If the assets and liabilities were transferred to more than one entity under subsection 44.2 (6) or 44.6 (6), the registered party concerned shall apportion the liability for the payment in a way that corresponds to the apportionment under that subsection.
3. The registered party shall file with the Chief Electoral Officer a statement identifying the entity or entities that are liable for the payment and giving details of any apportionment. The statement shall be accompanied by a document, in a form prescribed by the Chief Electoral Officer, indicating the party's approval.

(5) Section 18 of the Act is amended by adding the following subsection:

Contributions at certain meetings

(3.1) A contribution made by a person at a meeting referred to in subsection 23.1 (2.1) shall not be included when calculating the person's contribution total for the purposes of subsection (1) or (1.1), as applicable.

(6) Subsection 23.1 (1) of the Act is amended by adding the following paragraph:

- 3.1 A person who was nominated or appointed as an official party candidate for an electoral district on or after March 1, 2016 but who is not a registered candidate, in respect of a fund-raising event held on or after the day the *Representation Statute Law Amendment Act, 2017* received Royal Assent.

(7) Clause 23.1 (2) (a) of the Act is repealed and the following substituted:

- (a) attending an event held by or on behalf of a party, constituency association, nomination contestant, candidate or leadership contestant registered under this Act where,
 - (i) the event is advertised in advance,
 - (ii) a charge by the sale of tickets or otherwise is made exclusively to recover the costs of holding the event and that fact is stated in all advertisements for the event, and
 - (iii) any money raised in excess of the amount required for cost recovery is promptly paid to the Chief Electoral Officer; or

(8) Section 23.1 of the Act is amended by adding the following subsection:

Saving, attending general meetings, etc.

(2.1) Nothing in subsection (1) prevents a person mentioned in that subsection from attending an annual general meeting, policy conference or similar meeting for members held by a registered political party or registered constituency association where a charge for attendance includes a contribution portion, if the requirements of subclauses (2) (a) (i) to (iii), with necessary modifications, are met with respect to the meeting.

(9) Subsection 38 (3.3) of the Act is repealed and the following substituted:

Increase for candidates in certain northern electoral districts

(3.3) The amount determined under subsection (3) shall be increased by the applicable amount in relation to candidates in the following electoral districts:

1. Algoma-Manitoulin.
2. Kenora-Rainy River.
3. Kiiwetinoong.
4. Mushkegowuk-James Bay.
5. Nickel Belt.
6. Thunder Bay-Atikokan.
7. Thunder Bay-Superior North.
8. Timiskaming-Cochrane.

(10) Section 41.1 of the Act is amended by adding the following subsections:

Reporting, appointed candidates

(2.1) Promptly after a candidate is appointed with respect to a registered party for an electoral district, the registered party shall notify the Chief Electoral Officer of the name of the candidate who was selected.

Transition

(2.2) Promptly after the *Representation Statute Law Amendment Act, 2017* receives Royal Assent, a registered party shall notify the Chief Electoral Officer of the name of any candidate who,

- (a) was nominated with respect to the registered party for an electoral district on or after March 1, 2016 and before July 1, 2017; or
- (b) was appointed with respect to the registered party for an electoral district on or after March 1, 2016 and before the *Representation Statute Law Amendment Act, 2017* received Royal Assent.

(11) Subsection 41.1 (2.2) of the Act, as enacted by subsection (10), is repealed.

(12) Paragraph 1 of subsection 41.1 (3) of the Act is repealed and the following substituted:

- 1. A statement shall be filed with respect to the nomination contest period within three months after it ends.

(13) The Act is amended by adding the following section:

Registration of certain northern electoral districts

44.6 (1) The Chief Electoral Officer shall register, in the register mentioned in subsection 11 (2), constituency associations for the electoral districts of Kenora-Rainy River, Kiiwetinoong, Mushkegowuk-James Bay and Timmins, as they were described after the *Representation Statute Law Amendment Act, 2017* received Royal Assent.

Formal requirements of application

(2) The Chief Electoral Officer shall register a constituency association under subsection (1) only if its application complies with subsection 11 (2) and is accompanied by a document, in a form prescribed by the Chief Electoral Officer, indicating the approval of the registered party concerned.

Automatic dissolution

(3) Except for the purposes of this section, every constituency association for the electoral districts of Kenora-Rainy River and Timmins-James Bay, as they were described immediately before the *Representation Statute Law Amendment Act, 2017* received Royal Assent, is dissolved on December 31, 2017, subject to subsections (13) to (15).

Earlier dissolution

(4) A registered party may request the dissolution of a constituency association referred to in subsection (3) before December 31, 2017, in which case the Chief Electoral Officer shall make an order to that effect.

Same

(5) The request shall be accompanied by a document, in a form prescribed by the Chief Electoral Officer, indicating the party's approval.

Assets and liabilities

(6) Every constituency association that is dissolved under this section shall transfer its assets and liabilities to one or more constituency associations referred to in subsection (1), to the registered party concerned or to both, subject to any written direction by the party, before it is dissolved.

Filing of direction

(7) A direction referred to in subsection (6) shall be filed with the Chief Electoral Officer and shall be accompanied by a document, in a form prescribed by the Chief Electoral Officer, indicating the party's approval.

Report re assets and liabilities

(8) Within 90 days after being dissolved under this section, a constituency association shall file with the Chief Electoral Officer a statement setting out the assets and liabilities it still held, if any, on the day it was dissolved.

Deemed transfer to party

(9) Any assets and liabilities that a constituency association still held on the day it was dissolved under this section are deemed to have been transferred to the registered party on that day, and the party may then transfer them to its constituency associations referred to in subsection (1) as it sees fit.

Filing of annual financial statement and auditor's report, 2017 and 2018

(10) The following rules apply to the filing of annual financial statements and auditors' reports for 2017 and 2018 by the chief financial officers of constituency associations dissolved under this section and of constituency associations registered under subsection (1):

- 1. Section 41 governs the filing, except that the dates for filing set out in this subsection prevail over those set out in subsection 41 (1).
- 2. The 2017 statement and report of a constituency association dissolved under this section shall be filed within 90 days after its dissolution.
- 3. If a constituency association is registered under subsection (1) before January 1, 2018, its 2017 statement and report shall be filed on or before May 31, 2018.

4. If a constituency association is registered under subsection (1) on or after January 1, 2018, its 2018 statement and report shall be filed on or before May 31, 2019.

Certain by-elections

(11) If, after a registered constituency association has been dissolved under this section, but before the redistribution described in subsection 2 (1) of the *Representation Act, 2015* takes effect, a writ is issued for an election in an old electoral district within the meaning of section 44.1 that falls within the boundaries of the electoral districts referred to in subsection (3), the registered party concerned may,

- (a) establish a provisional constituency association for the old electoral district;
- (b) designate a constituency association to act in the place of the dissolved constituency association; or
- (c) conduct the electoral campaign directly without interposing a provisional or designated constituency association.

Application of Act to certain by-elections

(12) With respect to the campaign period in an election where subsection (11) applies, this Act applies to the provisional constituency association, designated constituency association or registered party, as the case may be, as if it were a registered constituency association for the electoral district and, without limiting the generality of the foregoing, a registered party that conducts an electoral campaign directly is entitled to incur campaign expenses under subsection 38 (3), to the same extent as a constituency association, in addition to its expenses under subsection 38 (1).

Exception, registered party opts to continue constituency association

(13) Before December 31, 2017, a registered party may file with the Chief Electoral Officer a notice stating that a specified constituency association that would otherwise be subject to dissolution under this section will be the party's constituency association for a specified electoral district referred to in subsection (1).

Filing requirements

(14) The notice under subsection (13) shall be accompanied by a document, in a form prescribed by the Chief Electoral Officer, indicating the party's approval.

Constituency association continues

(15) On the filing of the notice under subsection (13) the constituency association becomes the constituency association of the party for the specified electoral district.

ELECTION ACT

5 Section 17.2 of the *Election Act* is repealed and the following substituted:

Provision of information by Chief Electoral Officer

17.2 The Chief Electoral Officer may, for electoral purposes, provide information from the permanent register of electors to,

- (a) the Chief Electoral Officer of Canada;
- (b) any municipality in Ontario and its local boards; and
- (c) the Municipal Property Assessment Corporation.

LEGISLATIVE ASSEMBLY ACT

6 Subsection 67 (6) of the *Legislative Assembly Act* is amended by striking out the portion before paragraph 1 and substituting the following:

Expenses, certain northern districts

(6) The Board of Internal Economy may authorize the payment of the following expenses to the member of the Assembly representing the electoral district of Algoma-Manitoulin, Kenora-Rainy River, Kiiwetinoong, Mushkegowuk-James Bay, Nickel Belt, Timiskaming-Cochrane, Thunder Bay-Atikokan or Thunder Bay-Superior North:

COMMENCEMENT AND SHORT TITLE

Commencement

7 (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

(2) Subsections 4 (3) and (11) come into force on June 30, 2018.

Short title

8 The short title of this Act is the *Representation Statute Law Amendment Act, 2017*.

EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 152 and does not form part of the law.
Bill 152 has been enacted as Chapter 18 of the Statutes of Ontario, 2017.*

The Bill makes amendments to various statutes in relation to election-related matters.

Representation Act, 2015

Subsection 2 (1) of the *Representation Act, 2015* is amended to provide for the reconstitution of the two northern electoral districts of Kenora-Rainy River and Timmins-James Bay as the four electoral districts of Kenora-Rainy River, Kiiwetinoong, Mushkegowuk-James Bay and Timmins. The Schedule to the Act, which sets out the boundaries of the northern electoral districts, is re-enacted in order to set out the boundaries of the new electoral districts. A new subsection 2 (4) is added to the Act to require the Attorney General to undertake a review of the name of the Mushkegowuk-James Bay electoral district, in consultation with affected communities, and to report any recommendations respecting the name to the Legislature. Finally, section 4.1 is added to require the Chief Electoral Officer to publicly advertise the creation of the new electoral districts within those districts.

Election Finances Act

Consequential amendments are made to the *Election Finances Act* to reflect the new northern electoral districts under the *Representation Act, 2015*, as amended by the Bill. Section 44.6 of the Act, dealing with the registration of constituency associations for the new northern electoral districts, is enacted. Subsection 17 (3) of the Act, dealing with the consequences of the dissolution of constituency associations on contributions received by them, is amended consequentially to incorporate the new section 44.6. Subsection 38 (3.3) of the Act, dealing with increased limits on total campaign expenses incurred in relation to certain northern electoral districts, is amended to add reference to the new electoral districts of Kiiwetinoong and Mushkegowuk-James Bay and to remove reference to the Timmins-James Bay electoral district.

Other amendments are also made to the Act. The definition of “nomination contest period” in subsection 1 (1) of the Act is amended in order to extend the period by three months, and consequential amendments to reflect the extension are made to subsection 41.1 (3) of the Act. A new subsection 1 (4) is added to the Act to provide that nomination contest periods that ended on or after July 1, 2017 and before the day the Bill receives Royal Assent are deemed to end three months after Royal Assent.

Section 23.1 of the Act, dealing with the attendance of specified persons at fund-raising events is amended in several ways. Subsection 23.1 (1) of the Act is amended to add to the list of persons whose attendance is restricted by the section persons who were nominated or appointed as an official party candidate on or after March 1, 2016, but who are not registered candidates. Clause 23.1 (2) (a) is re-enacted to add reference to advertising requirements in relation to specified cost-recovery events. Finally, the section is amended by adding subsection (2.1), providing that section 23.1 does not prevent persons from attending annual general meetings and other specified events for members held by a registered political party or registered constituency association where a charge for attendance includes a contribution portion, if specified requirements are met with respect to the meetings. Subsection 18 (3.1) is added to the Act to provide that contributions made at such meetings are not included for the purposes of calculating permissible contribution totals under that section.

Section 41.1 of the Act is amended by adding a requirement, in a new subsection (2.1), for registered parties to notify the Chief Electoral Officer of the names of candidates they appoint. A transition provision is included in subsection (2.2) to address notification of the Chief Electoral Officer respecting candidates nominated or appointed during specified transition periods.

Election Act

Section 17.2 of the *Election Act* is re-enacted to permit the Chief Electoral Officer to provide information from the permanent register of electors to the Municipal Property Assessment Corporation for electoral purposes.

Legislative Assembly Act

Subsection 67 (6) of the *Legislative Assembly Act*, dealing with expenses for members of the Assembly from certain northern electoral districts, is consequentially amended to add reference to the new electoral districts of Kiiwetinoong and Mushkegowuk-James Bay and to remove reference to the Timmins-James Bay electoral district.

CHAPITRE 18

Loi modifiant la Loi de 2015 sur la représentation électorale et d'autres lois

Sanctionnée le 25 octobre 2017

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

LOI DE 2015 SUR LA REPRÉSENTATION ÉLECTORALE

1 (1) La disposition 1 du paragraphe 2 (1) de la *Loi de 2015 sur la représentation électorale* est modifiée par remplacement de «11 circonscriptions électorales du Nord» par «13 circonscriptions électorales du Nord».

(2) La disposition 2 du paragraphe 2 (1) de la Loi est modifiée par remplacement de «11 circonscriptions électorales du Nord» par «13 circonscriptions électorales du Nord».

(3) L'article 2 de la Loi est modifié par adjonction du paragraphe suivant :

Examen : «Mushkegowuk-Baie James»

(4) Le procureur général procède à l'examen du nom de la circonscription électorale de Mushkegowuk-Baie James, en consultation avec les collectivités concernées, et fait part de toute recommandation à ce sujet à la Législature.

2 La Loi est modifiée par adjonction de l'article suivant :

Annnonce de la création des circonscriptions électorales

4.1 Dans les trois mois qui suivent le jour où la *Loi de 2017 modifiant des lois en ce qui concerne la représentation électorale* reçoit la sanction royale, le directeur général des élections fait, dans les quatre nouvelles circonscriptions électorales du Nord créées par cette loi, l'annonce publique de leur création.

3 L'annexe de la Loi est abrogée et remplacée par ce qui suit :

ANNEXE LES 13 CIRCONSCRIPTIONS ÉLECTORALES DU NORD

(Disposition 1 du paragraphe 2 (1))

1. ALGOMA-MANITOULIN

Comprend :

PREMIÈREMENT :

La totalité du district territorial d'Algoma, EXCEPTÉ la cité de Sault Ste. Marie et la partie de la réserve indienne Rankin Location n° 15D située dans les limites de la cité de Sault Ste. Marie.

DEUXIÈME :

Les parties du district territorial de Sudbury décrites comme suit :

- (i) la partie située à l'ouest de la limite est des cantons géographiques suivants : Shenango, Lemoine, Carty, Pinogami, Biggs, Rollo, Swayze, Cunningham, Blamey, Shipley, Singapore, Burr et Edighoffer;
- (ii) la partie située au sud et à l'ouest de la ligne décrite comme suit : commençant à l'angle nord-ouest du canton géographique d'Acheson, de là suivant vers l'est la limite nord des cantons géographiques d'Acheson, de Venturi et d'Ermatinger jusqu'à l'angle nord-est du canton géographique d'Ermatinger; de là suivant vers le sud la limite est des cantons géographiques d'Ermatinger et de Totten jusqu'à la limite ouest de l'ancienne municipalité régionale de Sudbury (2000); de là suivant, dans la direction générale sud, la limite ouest de ladite ancienne municipalité régionale jusqu'à l'angle nord-est du canton géographique de Foster; de là suivant vers le sud la limite est des cantons géographiques de Foster et de Curtin jusqu'à l'angle sud-est du canton géographique de Curtin; de là suivant vers l'est la limite sud des cantons géographiques de Roosevelt, de Hansen et de Goschen

jusqu'à l'angle sud-est du canton géographique de Goschen; de là suivant vers le sud la limite ouest du canton géographique de Sale jusqu'à son angle sud-ouest; de là suivant vers l'est la limite sud du canton géographique de Sale jusqu'à son angle sud-est; de là suivant vers le sud la limite ouest des cantons géographiques de Kilpatrick et de Travers et continuant vers le sud jusqu'à l'angle nord-est du district territorial de Manitoulin sur la limite ouest du district territorial de Sudbury.

TROISIÈMEMENT :

La partie du district territorial de Thunder Bay située au sud et à l'est de la ligne décrite comme suit : commençant à l'angle sud-ouest du canton géographique de Downer; de là vers l'ouest, selon une course astronomique, jusqu'à l'intersection d'une ligne tracée vers le sud, selon une course astronomique, depuis l'angle sud-est du canton géographique de Bain; de là vers le sud, selon une course astronomique, jusqu'à l'intersection d'une ligne tracée vers l'ouest, selon une course astronomique, depuis l'angle sud-ouest du canton géographique de McGill; de là vers l'est, selon une course astronomique, jusqu'au 86°00' O de longitude; de là suivant vers le sud le méridien de 86°00' O de longitude jusqu'à la rivière White; de là suivant ladite rivière dans la direction générale ouest jusqu'à la rive nord du lac Supérieur; de là S 45°00' O, selon une course astronomique, jusqu'à la frontière internationale entre le Canada et les États-Unis d'Amérique.

QUATRIÈMEMENT :

La totalité du district territorial de Manitoulin.

2. KENORA-RAINY RIVER

Comprend :

PREMIÈREMENT :

La partie du district territorial de Kenora située au sud de la ligne décrite comme suit : commençant à l'intersection de l'emprise de chemin de fer et de la limite est du district territorial de Kenora par environ 50°14'20" N de latitude; de là suivant vers le sud-ouest ladite emprise de chemin de fer jusqu'à son intersection avec la limite est de la municipalité de Sioux Lookout; de là suivant, dans la direction générale sud et ouest, les limites est et sud de ladite municipalité jusqu'à son angle sud-ouest; de là suivant vers le nord la limite ouest de ladite municipalité jusqu'à l'angle nord-est du canton géographique de Lomond; de là suivant vers l'ouest la limite nord des cantons géographiques de Lomond, de McIlraith, de Breithaupt, de Daniel, de Rowell, de Ladysmith, de Wauchope, de Buller et de Redvers jusqu'à l'angle nord-ouest du canton géographique de Redvers; de là vers le sud jusqu'à son angle sud-ouest; de là suivant vers l'ouest et le sud la limite nord et ouest du canton géographique de Smellie jusqu'à son angle sud-ouest; de là suivant vers l'ouest les limites nord des cantons géographiques de Bridges, de Tustin, de MacNicol et de Jackman jusqu'à la rive est du lac Silver; de là suivant vers l'ouest le prolongement de la limite nord du canton géographique de Jackman jusqu'à son intersection avec le prolongement vers le nord de la limite est du lot 1, concession 3, du canton géographique de Pettypiece; de là vers le nord jusqu'à la limite sud-est du lot 1, concession 5, du canton géographique de Pettypiece et continuant vers le nord suivant la limite est dudit canton jusqu'à son angle nord-est; de là suivant vers l'ouest la limite nord du canton géographique de Pettypiece jusqu'à la limite est du canton géographique de Redditt; de là suivant vers le nord, l'ouest et le sud les limites est, nord et ouest du canton géographique de Redditt jusqu'à la limite nord de la cité de Kenora; de là suivant vers l'ouest la limite nord de ladite cité de Kenora jusqu'à l'angle nord-est de la réserve indienne The Dalles n° 38C; de là suivant, dans la direction générale nord-ouest et sud, les limites nord et ouest de la réserve indienne The Dalles n° 38C jusqu'à l'intersection avec le prolongement vers l'est de la limite nord du canton géographique d'Umbach; de là suivant vers l'ouest ledit prolongement jusqu'à l'angle sud-est du territoire de la régie locale des services publics de Minaki tel qu'il est décrit dans l'annexe du Règlement de l'Ontario 212/83; de là suivant, dans la direction générale nord, ouest et sud, les limites extérieures est, nord et ouest dudit territoire de la régie locale des services publics jusqu'à la limite nord du canton géographique d'Umbach; de là suivant vers l'ouest la limite nord des cantons géographiques d'Umbach et de Pelican jusqu'à l'angle sud-est du canton géographique de Rudd; de là suivant vers le nord et l'ouest la limite est et nord du canton géographique de Rudd jusqu'à l'angle nord-est du canton géographique de Noyon; de là suivant vers l'ouest la limite nord du canton géographique de Noyon jusqu'à la frontière interprovinciale entre l'Ontario et le Manitoba.

DEUXIÈMEMENT :

La partie du district territorial de Rainy River située à l'ouest de la ligne décrite comme suit : commençant à l'intersection de la limite sud dudit district et du méridien dit 4^e méridien, ayant fait l'objet d'un levé par Phillips et Benner, arpenteurs-géomètres de l'Ontario, en 1926; de là suivant vers le nord ledit méridien jusqu'à la limite sud de la ville d'Atikokan; de là suivant vers l'ouest la limite sud de ladite ville jusqu'à son angle sud-ouest; de là suivant vers le nord la limite ouest de ladite ville et son prolongement vers le nord jusqu'à la limite nord du district territorial de Rainy River.

3. KIIWETINOONG

Comprend :**PREMIÈREMENT :**

La totalité du district territorial de Kenora, EXCEPTÉ les parties décrites comme suit :

- (i) la partie située à l'est de la ligne décrite comme suit : commençant à l'angle nord-est le plus septentrional du district territorial de Thunder Bay; de là suivant vers le nord le prolongement de la limite est du district territorial de Thunder Bay jusqu'au parallèle de 54°00' N de latitude; de là vers l'ouest, selon une course astronomique, jusqu'à la rivière Winisk; de là suivant vers le nord la rivière Winisk jusqu'à la limite sud de la réserve indienne Winisk n° 90; de là suivant vers l'ouest, le nord et l'est les limites extérieures sud, ouest et nord de la réserve indienne Winisk n° 90 jusqu'à l'intersection avec la rivière Winisk; de là suivant, dans la direction générale nord et est, la rivière Winisk jusqu'à l'intersection avec le prolongement vers le nord de la limite est du district territorial de Thunder Bay; de là suivant vers le nord le prolongement de la limite est du district territorial de Thunder Bay jusqu'à la limite nord de la province de l'Ontario;
- (ii) la partie située au sud de la ligne décrite comme suit : commençant à l'intersection de l'emprise de chemin de fer et de la limite est du district territorial de Kenora par environ 50°14'20" N de latitude; de là suivant vers le sud-ouest ladite emprise de chemin de fer jusqu'à son intersection avec la limite est de la municipalité de Sioux Lookout; de là suivant, dans la direction générale sud et ouest, les limites est et sud de ladite municipalité jusqu'à son angle sud-ouest; de là suivant vers le nord la limite ouest de ladite municipalité jusqu'à l'angle nord-est du canton géographique de Lomond; de là suivant vers l'ouest la limite nord des cantons géographiques de Lomond, de McIlraith, de Breithaupt, de Daniel, de Rowell, de Ladysmith, de Wauchope, de Buller et de Redvers jusqu'à l'angle nord-ouest du canton géographique de Redvers; de là vers le sud jusqu'à son angle sud-ouest; de là suivant vers l'ouest et le sud la limite nord et ouest du canton géographique de Smellie jusqu'à son angle sud-ouest; de là suivant vers l'ouest les limites nord des cantons géographiques de Bridges, de Tustin, de MacNicol et de Jackman jusqu'à la rive est du lac Silver; de là suivant vers l'ouest le prolongement de la limite nord du canton géographique de Jackman jusqu'à son intersection avec le prolongement vers le nord de la limite est du lot 1, concession 3, du canton géographique de Pettypiece; de là vers le nord jusqu'à la limite sud-est du lot 1, concession 5, du canton géographique de Pettypiece et continuant vers le nord suivant la limite est dudit canton jusqu'à son angle nord-est; de là suivant vers l'ouest la limite nord du canton géographique de Pettypiece jusqu'à la limite est du canton géographique de Redditt; de là suivant vers le nord, l'ouest et le sud les limites est, nord et ouest du canton géographique de Redditt jusqu'à la limite nord de la cité de Kenora; de là suivant vers l'ouest la limite nord de ladite cité de Kenora jusqu'à l'angle nord-est de la réserve indienne The Dalles n° 38C; de là suivant, dans la direction générale nord-ouest et sud, les limites nord et ouest de la réserve indienne The Dalles n° 38C jusqu'à l'intersection avec le prolongement vers l'est de la limite nord du canton géographique d'Umbach; de là suivant vers l'ouest ledit prolongement jusqu'à l'angle sud-est du territoire de la régie locale des services publics de Minaki tel qu'il est décrit dans l'annexe du Règlement de l'Ontario 212 83; de là suivant, dans la direction générale nord, ouest et sud, les limites extérieures est, nord et ouest dudit territoire de la régie locale des services publics jusqu'à la limite nord du canton géographique d'Umbach; de là suivant vers l'ouest la limite nord des cantons géographiques d'Umbach et de Pelican jusqu'à l'angle sud-est du canton géographique de Rudd; de là suivant vers le nord et l'ouest la limite est et nord du canton géographique de Rudd jusqu'à l'angle nord-est du canton géographique de Noyon; de là suivant vers l'ouest la limite nord du canton géographique de Noyon jusqu'à la frontière interprovinciale entre l'Ontario et le Manitoba.

DEUXIÈMEMENT :

La partie du district territorial de Thunder Bay située au nord et à l'ouest de la ligne décrite comme suit : commençant à l'intersection de la limite ouest du district territorial de Thunder Bay et de la ligne de base dite 6^e ligne de base, ou ligne de base de Ross, ayant fait l'objet d'un levé par K.G. Ross, arpenteur-géomètre de l'Ontario, en 1923; de là suivant vers l'est ladite ligne de base jusqu'à l'angle sud-est du canton géographique de Bertrand; de là suivant vers le nord la limite est des cantons géographiques de Bertrand, de McLaurin, de Furlonge, de Fletcher et de Bulmer jusqu'à l'angle nord-est du canton géographique de Bulmer; de là suivant vers le nord le méridien dit de Phillips et Benner, ayant fait l'objet d'un levé par Phillips et Benner, arpenteurs-géomètres de l'Ontario, en 1923, jusqu'à la limite nord du district territorial de Thunder Bay.

4. MUSHKEGOWUK-BAIE JAMES

Comprend la totalité du district territorial de Cochrane, EXCEPTÉ les parties décrites comme suit :

PREMIÈREMENT :

- (i) commençant à l'angle sud-est de la cité de Timmins, sur la limite sud du district territorial de Cochrane; de là suivant, dans la direction générale nord et ouest, les limites est et nord de ladite cité jusqu'à l'angle sud-est du canton géographique de Prosser; de là suivant vers le nord la limite est des cantons géographiques de Prosser, de Lucas, de Beck et d'Ottaway jusqu'à l'angle nord-est du canton géographique d'Ottaway; de là suivant vers

l'ouest et le nord les limites sud et ouest du canton géographique de Clute et continuant vers le nord en suivant la limite ouest du canton géographique de Leitch jusqu'à son angle nord-ouest; de là suivant vers l'est la limite sud des cantons géographiques de Marven, de Thorning, de Potter, de Sangster, de Bragg, de Newman, de Tomlinson, d'Hurtubise et de St. Laurent jusqu'à la frontière interprovinciale entre l'Ontario et le Québec;

(ii) La totalité de la cité de Timmins.

DEUXIÈMEMENT :

La partie du district territorial de Kenora située à l'est de la ligne décrite comme suit : commençant à l'angle nord-est le plus septentrional du district territorial de Thunder Bay; de là suivant vers le nord le prolongement de la limite est du district territorial de Thunder Bay jusqu'au parallèle de 54°00' N de latitude; de là vers l'ouest, selon une course astronomique, jusqu'à la rivière Winisk; de là suivant vers le nord la rivière Winisk jusqu'à la limite sud de la réserve indienne Winisk n° 90; de là suivant vers l'ouest, le nord et l'est les limites extérieures sud, ouest et nord de la réserve indienne Winisk n° 90 jusqu'à l'intersection avec la rivière Winisk; de là suivant, dans la direction générale nord et est, la rivière Winisk jusqu'à l'intersection avec le prolongement vers le nord de la limite est du district territorial de Thunder Bay; de là suivant vers le nord le prolongement de la limite est du district territorial de Thunder Bay jusqu'à la limite nord de la province de l'Ontario.

5. NICKEL BELT

Comprend :

PREMIÈREMENT :

La partie du district territorial de Timiskaming située à l'ouest de la limite est des cantons géographiques de Douglas et de Geikie.

DEUXIÈMEMENT :

La totalité du district territorial de Sudbury. EXCEPTÉ les parties décrites comme suit, autres que la partie formant la réserve indienne Wahnapiatae n° 11 :

- (i) la partie située à l'ouest de la limite est des cantons géographiques suivants : Shenango, Lemoine, Carty, Pinogami, Biggs, Rollo, Swayze, Cunningham, Blamey, Shipley, Singapore, Burr et Edighoffer;
- (ii) la partie située au sud et à l'ouest de la ligne décrite comme suit : commençant à l'angle nord-ouest du canton géographique d'Acheson; de là suivant vers l'est la limite nord des cantons géographiques d'Acheson, de Venturi et d'Ermatinger jusqu'à l'angle nord-est du canton géographique d'Ermatinger; de là suivant vers le sud la limite est des cantons géographiques d'Ermatinger et de Totten jusqu'à la limite ouest de l'ancienne municipalité régionale de Sudbury (2000); de là suivant, dans la direction générale sud, la limite ouest de ladite ancienne municipalité régionale jusqu'à l'angle nord-est du canton géographique de Foster; de là suivant vers le sud la limite est des cantons géographiques de Foster et de Curtin jusqu'à l'angle sud-est du canton géographique de Curtin; de là suivant vers l'est la limite sud des cantons géographiques de Roosevelt, de Hansen et de Goschen jusqu'à l'angle sud-est du canton géographique de Goschen; de là suivant vers le sud la limite ouest du canton géographique de Sale jusqu'à son angle sud-ouest; de là suivant vers l'est la limite sud du canton géographique de Sale jusqu'à son angle sud-est; de là suivant vers le sud la limite ouest des cantons géographiques de Kilpatrick et de Travers et continuant vers le sud jusqu'à l'angle nord-est du district territorial de Manitoulin sur la limite ouest du district territorial de Sudbury;
- (iii) la partie située à l'est de la ligne décrite comme suit : commençant à l'angle nord-ouest du canton géographique de Stull; de là suivant vers le sud la limite ouest des cantons géographiques de Stull, de Valin, de Cotton, de Beresford et de Creelman jusqu'à la limite nord de l'ancienne municipalité régionale de Sudbury (telle qu'elle existait le 31 décembre 1996); de là suivant, dans la direction générale est et sud, les limites nord et est de ladite ancienne municipalité et continuant vers le sud en suivant la limite est du canton géographique de Dryden jusqu'à l'angle nord-ouest du canton géographique de Hawley; de là suivant vers le sud et vers l'est les limites ouest et sud du canton géographique de Hawley jusqu'à l'angle nord-est du canton géographique de Hendrie; de là suivant vers le sud la limite est des cantons géographiques de Hendrie et de Hoskin jusqu'à la limite nord du canton géographique de Delamere; de là suivant vers l'est la limite nord du canton géographique de Delamere jusqu'à l'angle nord-ouest de l'ancien canton municipal de Cosby, Mason et Martland (tel qu'il existait le 31 décembre 1996); de là suivant, dans la direction générale sud et est, les limites ouest et sud dudit ancien canton municipal jusqu'à la limite sud du district territorial de Sudbury;
- (iv) la partie de l'ancienne cité de Sudbury (telle qu'elle existait le 31 décembre 1996) située au nord de la ligne décrite comme suit : commençant à l'intersection de la limite est de ladite ancienne cité et de la route n° 69; de là suivant vers l'ouest ladite route jusqu'au chemin Long Lake; de là suivant vers le sud ledit chemin jusqu'à la limite nord du canton géographique de Broder; de là suivant vers l'ouest la limite nord dudit canton géographique jusqu'à la limite ouest de ladite ancienne cité.

6. NIPISSING

Comprend :

PREMIÈREMENT :

La partie du district territorial de Nipissing décrite comme suit : commençant à l'angle sud-est du district territorial de Parry Sound sur la limite ouest du district territorial de Nipissing; de là suivant, dans la direction générale est et sud, les limites ouest et sud du district territorial de Nipissing jusqu'à l'angle sud-ouest du canton géographique de Sproule; de là suivant vers l'est et vers le nord les limites sud et est dudit canton géographique jusqu'à l'angle sud-est du canton géographique de Bower; de là suivant vers le nord la limite est des cantons géographiques de Bower et de Freswick jusqu'à l'angle nord-est du canton géographique de Freswick; de là suivant vers l'ouest, vers le nord et vers l'est les limites sud, ouest et nord du canton géographique de Lister jusqu'à l'angle sud-est du canton géographique de Boyd; de là suivant vers le nord la limite est du canton géographique de Boyd jusqu'à la limite sud du canton municipal de Papineau-Cameron; de là suivant vers l'est et vers le nord les limites sud et est dudit canton municipal jusqu'à la frontière interprovinciale entre l'Ontario et le Québec; de là suivant ladite frontière interprovinciale dans la direction générale nord-ouest jusqu'à l'intersection du prolongement vers l'est de la limite sud du canton géographique d'Eddy; de là suivant vers l'ouest ledit prolongement et la limite sud des cantons géographiques d'Eddy et de Jocko jusqu'à l'angle nord-est du canton géographique de Mulock; de là suivant vers le sud la limite est du canton géographique de Mulock jusqu'à l'angle nord-est du canton géographique de Widdifield; de là suivant vers l'ouest la limite nord des cantons géographiques de Widdifield, de Commanda et de Beaucage jusqu'à l'angle nord-est du canton géographique de Pedley; de là suivant vers le sud la limite est du canton géographique de Pedley jusqu'à son angle sud-est; de là suivant vers l'ouest la limite sud du canton géographique de Pedley jusqu'à son angle sud-ouest; de là suivant vers le sud la limite est du canton géographique de Springer et son prolongement vers le sud jusqu'au milieu du lac Nipissing; de là S 45°00' E, selon une course astronomique, jusqu'à la limite nord du district territorial de Parry Sound; de là suivant, dans la direction générale est et sud, les limites nord et est du district territorial de Parry Sound jusqu'au point de départ.

DEUXIÈMEMENT :

La partie du district territorial de Parry Sound qui comprend le canton municipal de Nipissing, la municipalité de Callander et la municipalité de Powassan.

7. PARRY SOUND-MUSKOKA

Comprend :

PREMIÈREMENT :

La totalité du district territorial de Parry Sound, EXCEPTÉ le canton municipal de Nipissing, la municipalité de Callander et la municipalité de Powassan.

DEUXIÈMEMENT :

La totalité de la municipalité de district de Muskoka.

8. SAULT STE. MARIE

Comprend la totalité de la cité de Sault Ste. Marie et la partie de la réserve indienne Rankin Location n° 15D située dans les limites de la cité de Sault Ste. Marie.

9. SUDBURY

Comprend la partie de l'ancienne cité de Sudbury (telle qu'elle existait le 31 décembre 1996) située au nord de la ligne décrite comme suit : commençant à l'intersection de la limite est de ladite ancienne cité et de la route n° 69; de là suivant ladite route vers l'ouest jusqu'au chemin Long Lake; de là suivant ledit chemin vers le sud jusqu'à la limite nord du canton géographique de Broder; de là suivant vers l'ouest la limite nord dudit canton géographique jusqu'à la limite ouest de ladite ancienne cité.

10. THUNDER BAY-ATIKOKAN

Comprend :

PREMIÈREMENT :

La partie du district territorial de Rainy River située à l'est de la ligne décrite comme suit : commençant à l'intersection de la limite sud dudit district et du méridien dit 4^e méridien, ayant fait l'objet d'un leve par Phillips et Benner, arpenteurs-geomètres de l'Ontario, en 1926; de là suivant vers le nord ledit méridien jusqu'à la limite sud de la ville d'Atikokan; de là suivant vers l'ouest la limite sud de ladite ville jusqu'à son angle sud-ouest; de là suivant vers le nord la limite ouest de ladite ville et son prolongement vers le nord jusqu'à la limite nord du district territorial de Rainy River.

DEUXIÈMEMENT :

La partie du district territorial de Thunder Bay située au sud et à l'ouest de la ligne décrite comme suit : commençant à l'intersection de la limite ouest du district territorial de Thunder Bay et de la ligne de base dite 6^e ligne de base, ou ligne de base de Ross, ayant fait l'objet d'un levé par K.G. Ross, arpenteur-géomètre de l'Ontario, en 1923; de là suivant ladite ligne de base vers l'est jusqu'au 90°00' O de longitude; de là suivant vers le sud le 90°00' O de longitude jusqu'à son intersection la plus au sud avec la rivière Dog; de là suivant ladite rivière dans la direction générale sud et est jusqu'à la rive ouest du lac Dog; de là suivant la rive ouest du lac Dog dans la direction générale sud jusqu'à la limite nord du canton géographique de Fowler; de là suivant vers l'ouest et le sud les limites nord et ouest du canton géographique de Fowler jusqu'à la limite nord du canton géographique de Forbes; de là suivant vers l'est la limite nord du canton géographique de Forbes jusqu'à la rivière Kaministiquia; de là suivant la rivière Kaministiquia dans la direction générale sud jusqu'à la limite nord du canton géographique d'Oliver; de là suivant vers l'est la limite nord du canton géographique d'Oliver jusqu'à l'angle nord-ouest de la cité de Thunder Bay; de là suivant vers l'est et vers le sud les limites nord et est de ladite cité jusqu'à la route n° 17; de là suivant vers le sud-ouest la route n° 17 jusqu'à la rue Balsam; de là suivant la rue Balsam vers le nord jusqu'à l'avenue Wardrobe; de là suivant l'avenue Wardrobe vers l'ouest jusqu'à la ligne de transport hydro-électrique située le plus à l'est près du chemin Hilldale; de là suivant ladite ligne de transport dans la direction générale sud jusqu'à la promenade Pioneer; de là suivant la promenade Pioneer vers l'est jusqu'à la rue Valley; de là suivant la rue Valley vers le sud-est jusqu'à la route n° 17; de là suivant la route n° 17 vers le sud jusqu'à l'autoroute Harbour; de là suivant vers l'est l'autoroute Harbour, la rue Main et son prolongement vers l'est jusqu'à la limite est de la cité de Thunder Bay; de là suivant, dans la direction générale sud, est et sud, la limite est de la cité de Thunder Bay jusqu'à son angle sud-est sur la limite nord de la municipalité de Neebing; de là suivant vers le sud-est la limite nord de ladite municipalité jusqu'à la frontière internationale entre le Canada et les États-Unis d'Amérique.

11. THUNDER BAY-SUPÉRIEUR NORD

Comprend la totalité du district territorial de Thunder Bay EXCEPTÉ les parties décrites comme suit :

- (i) la partie située à l'ouest de la ligne décrite comme suit : commençant à l'intersection de la limite nord du district territorial de Thunder Bay et du méridien dit de Philipps et Benner, ayant fait l'objet d'un levé par Phillips et Benner, arpenteurs-géomètres de l'Ontario, en 1923; de là suivant vers le sud ledit méridien jusqu'à l'angle nord-est du canton géographique de Bulmer; de là suivant vers le sud la limite est des cantons géographiques de Bulmer, de Fletcher, de Furlonge, de McLaurin et de Bertrand jusqu'à l'angle sud-est du canton géographique de Bertrand; de là suivant vers l'est la ligne de base dite 6^e ligne de base, ou ligne de base de Ross, ayant fait l'objet d'un levé par K.G. Ross, arpenteur-géomètre de l'Ontario, en 1923, jusqu'au 90°00' O de longitude; de là suivant vers le sud le 90°00' O de longitude jusqu'à son intersection la plus au sud avec la rivière Dog; de là suivant ladite rivière dans la direction générale sud et est jusqu'à la rive ouest du lac Dog; de là suivant la rive ouest du lac Dog dans la direction générale sud jusqu'à la limite nord du canton géographique de Fowler; de là suivant vers l'ouest et le sud les limites nord et ouest du canton géographique de Fowler jusqu'à la limite nord du canton géographique de Forbes; de là suivant vers l'est la limite nord du canton géographique de Forbes jusqu'à la rivière Kaministiquia; de là suivant la rivière Kaministiquia dans la direction générale sud jusqu'à la limite nord du canton géographique d'Oliver; de là suivant vers l'est la limite nord du canton géographique d'Oliver jusqu'à l'angle nord-ouest de la cité de Thunder Bay; de là suivant vers l'est et vers le sud les limites nord et est de ladite cité jusqu'à la route n° 17; de là suivant la route n° 17 vers le sud-ouest jusqu'à la rue Balsam; de là suivant la rue Balsam vers le nord jusqu'à l'avenue Wardrobe; de là suivant l'avenue Wardrobe vers l'ouest jusqu'à la ligne de transport hydro-électrique située le plus à l'est près du chemin Hilldale; de là suivant ladite ligne de transport dans la direction générale sud jusqu'à la promenade Pioneer; de là suivant la promenade Pioneer vers l'est jusqu'à la rue Valley; de là suivant la rue Valley vers le sud-est jusqu'à la route n° 17; de là suivant la route n° 17 vers le sud jusqu'à l'autoroute Harbour; de là suivant vers l'est l'autoroute Harbour, la rue Main et son prolongement vers l'est jusqu'à la limite est de la cité de Thunder Bay; de là suivant, dans la direction générale sud, est et sud, la limite est de la cité de Thunder Bay jusqu'à son angle sud-est sur la limite nord de la municipalité de Neebing; de là suivant vers le sud-est la limite nord de ladite municipalité jusqu'à la frontière internationale entre le Canada et les États-Unis d'Amérique;
- (ii) la partie située au sud et à l'est de la ligne décrite comme suit : commençant à l'angle sud-ouest du canton géographique de Downer; de là vers l'ouest, selon une course astronomique, jusqu'à l'intersection d'une ligne tracée vers le sud, selon une course astronomique, depuis l'angle sud-est du canton géographique de Bain; de là vers le sud, selon une course astronomique, jusqu'à l'intersection d'une ligne tracée vers l'ouest, selon une course astronomique, depuis l'angle sud-ouest du canton géographique de McGill; de là vers l'est, selon une course astronomique, jusqu'au 86°00' O de longitude; de là vers le sud suivant le 86°00' O de longitude jusqu'à la rivière White; de là suivant ladite rivière dans la direction générale ouest jusqu'à la rive nord du lac Supérieur; de là S 45°00' O, selon une course astronomique, jusqu'à la frontière internationale entre le Canada et les États-Unis d'Amérique.

12. TIMISKAMING-COCHRANE

Comprend :**PREMIÈREMENT :**

La totalité du district territorial de Timiskaming EXCEPTÉ la partie située à l'ouest de la limite est des cantons géographiques de Douglas et de Geikie.

DEUXIÈME :

La partie du district territorial de Cochrane située à l'est et au sud de la ligne décrite comme suit : commençant à l'angle sud-est de la cité de Timmins, sur la limite sud du district territorial de Cochrane; de là suivant, dans la direction générale nord et ouest, les limites est et nord de ladite cité jusqu'à l'angle sud-est du canton géographique de Prosser; de là suivant vers le nord la limite est des cantons géographiques de Prosser, de Lucas, de Beck et d'Ottaway jusqu'à l'angle nord-est du canton géographique d'Ottaway; de là; suivant vers l'ouest et le nord les limites sud et ouest du canton géographique de Clute et continuant vers le nord en suivant la limite ouest du canton géographique de Leitch jusqu'à son angle nord-ouest; de là suivant vers l'est la limite sud des cantons géographiques de Marven, de Thorning, de Potter, de Sangster, de Bragg, de Newman, de Tomlinson, d'Hurtubise et de St. Laurent jusqu'à la frontière interprovinciale entre l'Ontario et le Québec.

TROISIÈME :

La partie du district territorial de Sudbury, autre que la partie formant la réserve indienne Wahnapiatae n° 11, située à l'est de la ligne décrite comme suit : commençant à l'angle nord-ouest du canton géographique de Stull; de là suivant vers le sud la limite ouest des cantons géographiques de Stull, de Valin, de Cotton, de Beresford et de Creelman jusqu'à la limite nord de l'ancienne municipalité régionale de Sudbury (telle qu'elle existait le 31 décembre 1996); de là suivant, dans la direction générale est et sud, les limites nord et est de ladite ancienne municipalité et continuant vers le sud en suivant la limite est du canton géographique de Dryden jusqu'à l'angle nord-ouest du canton géographique de Hawley; de là suivant vers le sud et vers l'est les limites ouest et sud du canton géographique de Hawley jusqu'à l'angle nord-est du canton géographique de Hendrie; de là suivant vers le sud la limite est des cantons géographiques de Hendrie et de Hoskin jusqu'à la limite nord du canton géographique de Delamere; de là suivant vers l'est la limite nord du canton géographique de Delamere jusqu'à l'angle nord-ouest de l'ancien canton municipal de Cosby, Mason et Martland (tel qu'il existait le 31 décembre 1996); de là suivant, dans la direction générale sud et est, les limites ouest et sud dudit ancien canton municipal jusqu'à la limite sud du district territorial de Sudbury.

QUATRIÈME :

La partie du district territorial de Nipissing située au nord et à l'ouest de la ligne décrite comme suit : commençant à la frontière interprovinciale, à l'intersection du prolongement vers l'est de la limite sud du canton géographique d'Eddy; de là suivant vers l'ouest ledit prolongement et la limite sud des cantons géographiques d'Eddy et de Jocko jusqu'à l'angle nord-est du canton géographique de Mulock; de là suivant vers le sud la limite est du canton géographique de Mulock jusqu'à l'angle nord-est du canton géographique de Widdifield; de là suivant vers l'ouest la limite nord des cantons géographiques de Widdifield, de Commanda et de Beaucage jusqu'à l'angle nord-est du canton géographique de Pedley; de là suivant vers le sud la limite est du canton géographique de Pedley jusqu'à son angle sud-est; de là suivant vers l'ouest la limite sud du canton géographique de Pedley jusqu'à son angle sud-ouest; de là suivant vers le sud la limite est du canton géographique de Springer et son prolongement vers le sud jusqu'au milieu du lac Nipissing; de là S 45° 00' E, selon une course astronomique, jusqu'à la limite nord du district territorial de Parry Sound.

13. TIMMINS

Comprend la totalité de la cité de Timmins dans le district territorial de Cochrane.

LOI SUR LE FINANCEMENT DES ÉLECTIONS

4 (1) La définition de «période de course à l'investiture» au paragraphe 1 (1) de la *Loi sur le financement des élections* est modifiée par remplacement de «et qui se termine lorsque le candidat de la circonscription électorale est choisi» par «et qui se termine trois mois après que le candidat de la circonscription électorale a été choisi» à la fin de la définition.

(2) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Disposition transitoire : période de course à l'investiture

(4) Dans le cas d'un candidat à l'investiture dont la période de course à l'investiture s'est terminée le 1^{er} juillet 2017 ou après cette date, mais avant que la *Loi de 2017 modifiant des lois en ce qui concerne la représentation électorale* ait reçu la sanction royale, la période de course à l'investiture est plutôt réputée s'être terminée trois mois après que cette loi a reçu la sanction royale.

(3) Le paragraphe 1 (4) de la Loi, tel qu'il est édicté par le paragraphe (2), est abrogé.

(4) Le paragraphe 17 (3) de la Loi est abrogé et remplacé par ce qui suit :**Contribution reçue par une association de circonscription dissoute**

(3) Les règles suivantes s'appliquent si, après la dissolution d'une association de circonscription en application de l'article 44.2 ou 44.6, il est établi qu'une contribution reçue par l'association de circonscription ou pour son compte doit être rendue en application du paragraphe (1) ou versée au directeur général des élections en application du paragraphe (2) :

1. La ou les entités auxquelles l'actif et le passif de l'association de circonscription dissoute ont été transférés conformément au paragraphe 44.2 (6) ou 44.6 (6) sont responsables du versement exigé par le paragraphe (1) ou (2).
2. Si l'actif et le passif ont été transférés à plus d'une entité en application du paragraphe 44.2 (6) ou 44.6 (6), le parti inscrit concerné répartit la responsabilité du versement d'une façon qui correspond à la répartition prévue à ce paragraphe.
3. Le parti inscrit dépose auprès du directeur général des élections une déclaration indiquant la ou les entités qui sont responsables du versement et donnant des précisions sur toute répartition. La déclaration est accompagnée d'un document, rédigé sous la forme prescrite par le directeur général des élections, qui indique l'approbation du parti.

(5) L'article 18 de la Loi est modifié par adjonction du paragraphe suivant :**Contributions à certaines assemblées**

(3.1) La contribution que fait une personne lors d'une assemblée visée au paragraphe 23.1 (2.1) n'entre pas dans le calcul du total de ses contributions pour l'application du paragraphe (1) ou (1.1), selon le cas.

(6) Le paragraphe 23.1 (1) de la Loi est modifié par adjonction de la disposition suivante :

- 3.1 La personne qui a été désignée ou nommée comme candidat officiel d'un parti dans une circonscription électorale le 1^{er} mars 2016 ou après cette date, mais qui n'est pas un candidat inscrit, à l'égard d'une activité de financement tenue le jour où la *Loi de 2017 modifiant des lois en ce qui concerne la représentation électorale* reçoit la sanction royale ou après ce jour.

(7) L'alinéa 23.1 (2) a) de la Loi est abrogé et remplacé par ce qui suit :

- a) de participer à une activité qui est tenue par un parti, une association de circonscription, un candidat à l'investiture, un candidat ou un candidat à la direction d'un parti inscrits aux termes de la présente loi ou pour leur compte, si les conditions suivantes sont réunies :
 - (i) l'activité est annoncée à l'avance,
 - (ii) des droits de participation sont perçus par la vente de billets ou d'une autre façon exclusivement dans le but de recouvrer les frais engagés pour tenir l'activité et que ce fait est indiqué dans toutes les annonces concernant l'activité,
 - (iii) tout excédent des fonds recueillis sur la somme nécessaire au recouvrement des frais est versé promptement au directeur général des élections;

(8) L'article 23.1 de la Loi est modifié par adjonction du paragraphe suivant :**Réserve : participation à des assemblées générales ou autres**

(2.1) Le paragraphe (1) n'a pas pour effet d'empêcher une personne visée à ce paragraphe de participer à une assemblée générale annuelle, à un congrès d'orientation ou à une assemblée semblable des membres qui est tenu par un parti politique inscrit ou une association de circonscription inscrite dans les cas où les droits de participation comprennent une contribution, si les exigences des sous-alinéas (2) a) (i) à (iii), avec les adaptations nécessaires, sont respectées à l'égard de l'assemblée.

(9) Le paragraphe 38 (3.3) de la Loi est abrogé et remplacé par ce qui suit :**Augmentation pour les candidats dans certaines circonscriptions électorales du Nord**

(3.3) Le montant déterminé aux termes du paragraphe (3) est augmenté du montant applicable à l'égard des candidats dans les circonscriptions électorales suivantes :

1. Algoma-Manitoulin.
2. Kenora-Rainy River.
3. Kiiwetinoong.
4. Mushkegowuk-Baie James.
5. Nickel Belt.
6. Thunder Bay-Atikokan.
7. Thunder Bay-Supérieur Nord.

8. Timiskaming-Cochrane.

(10) L'article 41.1 de la Loi est modifié par adjonction des paragraphes suivants :

Rapport : candidats nommés

(2.1) Promptement après la nomination d'un candidat pour un parti inscrit dans une circonscription électorale, le parti inscrit communique au directeur général des élections le nom du candidat qui a été choisi.

Disposition transitoire

(2.2) Promptement après que la *Loi de 2017 modifiant des lois en ce qui concerne la représentation électorale* a reçu la sanction royale, le parti inscrit communique au directeur général des élections le nom de tout candidat qui a été, selon le cas :

- a) désigné pour le parti inscrit dans une circonscription électorale le 1^{er} mars 2016 ou après cette date, mais avant le 1^{er} juillet 2017;
- b) nommé pour le parti inscrit dans une circonscription électorale le 1^{er} mars 2016 ou après cette date, mais avant que la *Loi de 2017 modifiant des lois en ce qui concerne la représentation électorale* reçoive la sanction royale.

(11) Le paragraphe 41.1 (2.2) de la Loi, tel qu'il est édicté par le paragraphe (10), est abrogé.

(12) La disposition 1 du paragraphe 41.1 (3) de la Loi est abrogée et remplacée par ce qui suit :

1. Un état est déposé à l'égard de la période de course à l'investiture dans les trois mois après qu'elle s'est terminée.

(13) La Loi est modifiée par adjonction de l'article suivant :

Inscription de certaines circonscriptions électorales du Nord

44.6 (1) Le directeur général des élections inscrit au registre visé au paragraphe 11 (2) les associations de circonscription des circonscriptions électorales de Kenora-Rainy River, de Kiiwetinoong, de Mushkegowuk-Baie James et de Timmins, telles qu'elles sont décrites après que la *Loi de 2017 modifiant des lois en ce qui concerne la représentation électorale* a reçu la sanction royale.

Exigences de forme

(2) Le directeur général des élections n'inscrit une association de circonscription en application du paragraphe (1) que si sa demande est conforme au paragraphe 11 (2) et qu'elle est accompagnée d'un document, rédigé sous la forme prescrite par lui, qui indique l'approbation du parti inscrit concerné.

Dissolution automatique

(3) Sauf pour l'application du présent article, chacune des associations de circonscription des circonscriptions électorales de Kenora-Rainy River et de Timmins-Baie James, telles qu'elles étaient énoncées immédiatement avant que la *Loi de 2017 modifiant des lois en ce qui concerne la représentation électorale* reçoive la sanction royale, est dissoute le 31 décembre 2017, sous réserve des paragraphes (13) à (15).

Dissolution anticipée

(4) Tout parti inscrit peut demander la dissolution d'une association de circonscription visée au paragraphe (3) avant le 31 décembre 2017, auquel cas le directeur général des élections prend une ordonnance à cet effet.

Idem

(5) La demande est accompagnée d'un document, rédigé sous la forme prescrite par le directeur général des élections, qui indique l'approbation du parti.

Actif et passif

(6) Avant sa dissolution, chaque association de circonscription qui est dissoute en application du présent article transfère son actif et son passif à une ou plus d'une association de circonscription visée au paragraphe (1), au parti inscrit concerné ou à l'ensemble de ceux-ci, sous réserve des directives écrites du parti.

Dépôt des directives

(7) Les directives visées au paragraphe (6) sont déposées auprès du directeur général des élections et sont accompagnées d'un document, rédigé sous la forme prescrite par le directeur général des élections, qui indique l'approbation du parti.

Rapport : actif et passif

(8) Dans les 90 jours qui suivent sa dissolution en application du présent article, chaque association de circonscription dépose auprès du directeur général des élections une déclaration précisant les éléments d'actif et de passif qu'elle détenait encore, le cas échéant, à la date de sa dissolution.

Actif et passif réputés transférés au parti

(9) Les éléments d'actif et de passif que toute association de circonscription détenait encore à la date de sa dissolution en application du présent article sont réputés transférés à cette date au parti inscrit. Le parti peut alors les transférer à ses associations de circonscription visées au paragraphe (1) comme il l'entend.

Dépôt de l'état financier annuel et du rapport du vérificateur : 2017 et 2018

(10) Les règles suivantes s'appliquent au dépôt des états financiers annuels et rapports du vérificateur de 2017 et 2018 par les directeurs des finances des associations de circonscription dissoutes en application du présent article et des associations de circonscription inscrites en application du paragraphe (1) :

1. L'article 41 régit le dépôt, sauf que les dates de dépôt prévues au présent paragraphe l'emportent sur celles prévues au paragraphe 41 (1).
2. Les état financier et rapport du vérificateur de 2017 de toute association de circonscription dissoute en application du présent article sont déposés dans les 90 jours qui suivent sa dissolution.
3. Si une association de circonscription est inscrite en application du paragraphe (1) avant le 1^{er} janvier 2018, ses état financier et rapport du vérificateur de 2017 sont déposés au plus tard le 31 mai 2018.
4. Si une association de circonscription est inscrite en application du paragraphe (1) le 1^{er} janvier 2018 ou après cette date, ses état financier et rapport du vérificateur de 2018 sont déposés au plus tard le 31 mai 2019.

Certaines élections partielles

(11) Si un décret de convocation des électeurs d'une ancienne circonscription électorale au sens de l'article 44.1 située dans les limites des circonscriptions électorales visées au paragraphe (3) est émis après qu'une association de circonscription inscrite a été dissoute en application du présent article, mais avant que le redécoupage prévu au paragraphe 2 (1) de la *Loi de 2015 sur la représentation électorale* ne prenne effet, le parti inscrit concerné peut, selon le cas :

- a) former une association de circonscription provisoire pour l'ancienne circonscription électorale;
- b) désigner une association de circonscription et la charger d'agir à la place de celle qui a été dissoute;
- c) mener la campagne électorale directement sans passer par une association de circonscription provisoire ou désignée.

Champ d'application de la Loi pour certaines élections partielles

(12) En ce qui concerne la période de campagne électorale d'une élection lorsque le paragraphe (11) s'applique, la présente loi s'applique à l'association de circonscription provisoire, à l'association de circonscription désignée ou au parti inscrit, selon le cas, comme s'il s'agissait de l'association de circonscription inscrite de la circonscription électorale et, sans préjudice de la portée générale de ce qui précède, le parti inscrit qui mène une campagne électorale directement a le droit d'engager des dépenses liées à la campagne électorale aux termes du paragraphe 38 (3) dans la même mesure qu'une association de circonscription, en plus des dépenses qu'il peut engager aux termes du paragraphe 38 (1).

Exception : choix du parti inscrit de proroger l'association de circonscription

(13) Avant le 31 décembre 2017, tout parti inscrit peut déposer auprès du directeur général des élections un avis indiquant que l'association de circonscription précisée qui, autrement, ferait l'objet d'une dissolution en application du présent article sera l'association de circonscription du parti pour la circonscription électorale visée au paragraphe (1) qui est précisée.

Exigences de dépôt

(14) L'avis prévu au paragraphe (13) est accompagné d'un document, rédigé sous la forme prescrite par le directeur général des élections, qui indique l'approbation du parti.

Prorogation de l'association de circonscription

(15) Au dépôt de l'avis prévu au paragraphe (13), l'association de circonscription devient l'association de circonscription du parti pour la circonscription électorale précisée.

LOI ÉLECTORALE**5 L'article 17.2 de la Loi électorale est abrogé et remplacé par ce qui suit :****Communication de renseignements par le directeur général des élections**

17.2 Le directeur général des élections peut, à des fins électorales, communiquer des renseignements provenant du registre permanent des électeurs aux personnes et entités suivantes :

- a) le Directeur général des élections du Canada;
- b) toute municipalité de l'Ontario et ses conseils locaux;
- c) la Société d'évaluation foncière des municipalités.

LOI SUR L'ASSEMBLÉE LÉGISLATIVE

6 Le paragraphe 67 (6) de la *Loi sur l'Assemblée législative* est modifié par remplacement du passage qui précède la disposition 1 par ce qui suit :

Frais, certaines circonscriptions du Nord

(6) La Commission de régie interne peut autoriser le remboursement des frais suivants aux députés d'Algoma-Manitoulin, de Kenora-Rainy River, de Kiiwetinoong, de Mushkegowuk-Baie James, de Nickel Belt, de Timiskaming-Cochrane, de Thunder Bay-Atikokan et de Thunder Bay-Supérieur Nord :

ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ**Entrée en vigueur**

7 (1) Sous réserve du paragraphe (2), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.

(2) Les paragraphes 4 (3) et (11) entrent en vigueur le 30 juin 2018.

Titre abrégé

8 Le titre abrégé de la présente loi est *Loi de 2017 modifiant des lois en ce qui concerne la représentation électorale*.

NOTE EXPLICATIVE

La note explicative, rédigée à titre de service aux lecteurs du projet de loi 152, ne fait pas partie de la loi. Le projet de loi 152 a été édité et constitue maintenant le chapitre 18 des Lois de l'Ontario de 2017.

Le projet de loi apporte des modifications à diverses lois relativement à des questions portant sur les élections.

Loi de 2015 sur la représentation électorale

Le paragraphe 2 (1) de la *Loi de 2015 sur la représentation électorale* est modifié de manière à prévoir le remaniement des deux circonscriptions électorales du Nord de Kenora-Rainy River et de Timmins-Baie James, pour constituer quatre circonscriptions électorales, soit les circonscriptions électorales de Kenora-Rainy River, de Kiiwetinoong, de Mushkegowuk-Baie James et de Timmins. L'annexe de la Loi, qui indique les limites des circonscriptions électorales du Nord, est rééditée afin d'indiquer celles des nouvelles circonscriptions électorales. Le nouveau paragraphe 2 (4) ajouté à la Loi exige que le procureur général procède à l'examen du nom de la circonscription électorale de Mushkegowuk-Baie James, en consultation avec les collectivités concernées, et fasse part de toute recommandation à ce sujet à la Législature. Enfin, l'article 4.1 est ajouté pour exiger que le directeur général des élections fasse, dans les nouvelles circonscription électorales, l'annonce publique de leur création.

Loi sur le financement des élections

Des modifications corrélatives sont apportées à la *Loi sur le financement des élections* pour tenir compte des nouvelles circonscriptions électorales du Nord prévues par la *Loi de 2015 sur la représentation électorale*, telle qu'elle est modifiée par le projet de loi. Celui-ci édicte donc l'article 44.6 de la Loi, qui traite de l'inscription des associations de circonscription des nouvelles circonscriptions électorales du Nord. Le paragraphe 17 (3) de la Loi, qui traite des conséquences de la dissolution des associations de circonscription sur les contributions qu'elles reçoivent, est modifié en fonction du nouvel article 44.6 susmentionné. Le paragraphe 38 (3.3) de la Loi, qui prévoit des plafonds plus élevés pour le total des dépenses de campagne engagées à l'égard de certaines circonscriptions électorales du Nord, est modifié pour faire état des nouvelles circonscriptions électorales de Kiiwetinoong et de Mushkegowuk-Baie James et ne plus mentionner la circonscription électorale de Timmins-Baie James.

D'autres modifications sont apportées à la Loi. La définition de «période de course à l'investiture» au paragraphe 1 (1) de la Loi est modifiée pour prolonger cette période de trois mois, et des modifications corrélatives sont apportées au paragraphe 41.1 (3) de la Loi pour tenir compte de cette prolongation. Le nouveau paragraphe 1 (4) est ajouté à la Loi pour prévoir que les périodes de course à l'investiture qui se sont terminées le 1^{er} juillet 2017 ou après cette date, mais avant que le projet de loi ait reçu la sanction royale, sont réputées se terminer trois mois après la date de la sanction royale.

L'article 23.1 de la Loi, qui traite de la participation des personnes précisées à des activités de financement, est modifié à plusieurs égards. La modification du paragraphe 23.1 (1) de la Loi a pour but d'ajouter à la liste des personnes auxquelles l'article interdit de participer à des activités de financement les personnes qui ont été désignées ou nommées comme candidats officiels d'un parti le 1^{er} mars 2016 ou après cette date, mais qui ne sont pas des candidats inscrits. L'alinéa 23.1 (2) a) est réédité pour faire état d'exigences relatives aux annonces concernant les activités précisées faisant l'objet d'un recouvrement des frais. Enfin, l'article 23.1 est modifié par adjonction du paragraphe (2.1), qui prévoit que cet article n'a pas pour effet d'empêcher les personnes visées de participer à des assemblées générales annuelles et à d'autres activités précisées des membres tenues par un parti politique inscrit ou une association de circonscription inscrite dans les cas où les droits de participation comprennent une contribution, si les exigences précisées sont respectées à l'égard de ces assemblées. Le paragraphe 18 (3.1) ajouté à la Loi prévoit que les contributions qui sont faites lors de ces assemblées n'entrent pas dans le calcul des contributions maximales autorisées visées à l'article 18.

L'article 41.1 de la Loi est modifié par l'ajout, au nouveau paragraphe (2.1), d'une obligation pour les partis inscrits de communiquer au directeur général des élections le nom des candidats qu'ils nomment. Une disposition transitoire est ajoutée, au paragraphe (2.2), pour traiter de l'avis communiqué au directeur général des élections concernant les candidats désignés ou nommés au cours des périodes de transition précisées.

Loi électorale

L'article 17.2 de la *Loi électorale* est réédité de façon à permettre au directeur général des élections de communiquer des renseignements provenant du registre permanent des électeurs à la Société d'évaluation foncière des municipalités à des fins électorales.

Loi sur l'Assemblée législative

Le paragraphe 67 (6) de la *Loi sur l'Assemblée législative*, qui a trait aux frais engagés par des députés de certaines circonscriptions électorales du Nord, fait l'objet de modifications corrélatives consistant à ajouter la mention des nouvelles circonscriptions électorales de Kiiwetinoong et de Mushkegowuk-Baie James et à supprimer la mention de la circonscription électorale de Timmins-Baie James.

CHAPTER 19

An Act to enact the Safe Access to Abortion Services Act, 2017 and to amend the Freedom of Information and Protection of Privacy Act in relation to abortion services

Assented to October 25, 2017

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2.	Commencement
3.	Short title
Schedule 1	Safe Access to Abortion Services Act, 2017
Schedule 2	Freedom of Information and Protection of Privacy Act

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Protecting a Woman's Right to Access Abortion Services Act, 2017*.

SCHEDULE 1 SAFE ACCESS TO ABORTION SERVICES ACT, 2017

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PURPOSE

Purpose of Act

1 The purpose of this Act is to protect access to abortion services by protecting the safety, security, health and privacy of persons seeking to access these services and of persons providing, or assisting in the provision of, these services.

INTERPRETATION

Definitions

2 In this Act,

“abortion services” means lawful services provided for the termination of pregnancy including prescribing, dispensing or administering a drug to terminate pregnancy; (“services d’interruption volontaire de grossesse”)

“clinic” means a place, other than a place in a hospital, whose primary purpose is to provide abortion services; (“clinique”)

“facility” means,

- (a) a place, other than a clinic, where abortion services are provided including, for greater certainty, a hospital, health centre or pharmacy where abortion services are provided, or
- (b) the office of a person who is a protected service provider within the meaning of clause (b) of the definition of “protected service provider”; (“établissement”)

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

“property”, in relation to a clinic, facility or residence, means,

- (a) property within the meaning of the *Land Titles Act* if that Act applies to the land where the clinic, facility or residence is located and clause (c) does not apply,
- (b) property within the meaning of the *Registry Act* if that Act applies to the land where the clinic, facility or residence is located and clause (c) does not apply,
- (c) property within the meaning of the *Condominium Act, 1998* or as prescribed for the purposes of this clause, if that Act governs the land where the clinic, facility or residence is located as described in clause 2 (3) (a) of that Act, or
- (d) property, as prescribed for the purposes of this clause, if none of clauses (a), (b) or (c) apply; (“unité foncière”)

“protected service provider” means,

- (a) a person who works at a clinic, or
- (b) a person who provides, or assists in the provision of, abortion services and who is,
 - (i) a member of the College of Physicians and Surgeons of Ontario,
 - (ii) a member of the College of Nurses of Ontario,
 - (iii) a member of the Ontario College of Pharmacists who holds a certificate of registration as a pharmacist, or
 - (iv) a regulated health professional prescribed for the purpose of this subclause. ("fournisseur de services protégé")

PROHIBITIONS

Prohibitions in access zones for clinics or facilities

3 (1) While in an access zone established under section 6 for a clinic or facility, no person shall,

- (a) advise or persuade, or attempt to advise or persuade, a person to refrain from accessing abortion services;
- (b) inform or attempt to inform a person concerning issues related to abortion services, by any means, including oral, written or graphic means;
- (c) perform or attempt to perform an act of disapproval concerning issues related to abortion services, by any means, including oral, written or graphic means;
- (d) persistently request that,
 - (i) a person refrain from accessing abortion services, or
 - (ii) a protected service provider refrain from providing, or assisting in the provision of, abortion services;
- (e) for the purpose of dissuading a person from accessing abortion services,
 - (i) continuously or repeatedly observe the clinic or facility or persons entering or leaving the clinic or facility,
 - (ii) physically interfere with or attempt to physically interfere with the person,
 - (iii) intimidate or attempt to intimidate the person, or
 - (iv) photograph, film, videotape, sketch or in any other way graphically record the person;
- (f) for the purpose of dissuading a protected service provider from providing, or assisting in the provision of, abortion services,
 - (i) continuously or repeatedly observe the clinic or facility or persons entering or leaving the clinic or facility,
 - (ii) physically interfere with or attempt to physically interfere with the provider,
 - (iii) intimidate or attempt to intimidate the provider, or
 - (iv) photograph, film, videotape, sketch or in any other way graphically record the provider; or
- (g) do anything prescribed for the purpose of this clause.

Exception

(2) Clauses (1) (a), (b), (c) and (d) do not apply,

- (a) to anything done in the course of a person's work at the clinic or facility; or
- (b) to anything occurring between a person accessing, or attempting to access, abortion services and someone who is accompanying the person with the person's consent.

Prohibitions in access zones for residences

4 While in an access zone established under section 7 for the residence of a protected service provider, no person shall,

- (a) perform or attempt to perform an act of disapproval, directed at or about the provider, concerning issues related to abortion services, by any means, including oral, written or graphic means;
- (b) persistently request that the provider refrain from providing, or assisting in the provision of, abortion services; or
- (c) for the purpose of dissuading the provider from providing, or assisting in the provision of, abortion services,
 - (i) continuously or repeatedly observe the residence,
 - (ii) physically interfere with or attempt to physically interfere with the provider or a member of the provider's household,
 - (iii) intimidate or attempt to intimidate the provider or a member of the provider's household, or

- (iv) photograph, film, videotape, sketch or in any other way graphically record the provider or a member of the provider's household.

Harassment of providers

5 (1) No person shall, for the purpose of dissuading a protected service provider from providing, or assisting in the provision of, abortion services,

- (a) repeatedly approach, accompany or follow the provider or a person known to the provider;
- (b) continuously or repeatedly observe the provider;
- (c) persistently request that the provider refrain from providing, or assisting in the provision of, abortion services; or
- (d) engage in threatening conduct directed at the provider or a person known to the provider.

Same

(2) No person shall repeatedly communicate by telephone, fax or electronic means with a protected service provider or a person known to the provider, for the purpose of dissuading the provider from continuing to provide, or assist in the provision of, abortion services, after the person being communicated with has requested that such communications cease.

ACCESS ZONES**Access zones for clinics and facilities**

6 (1) An access zone is established,

- (a) for each clinic; and
- (b) for each facility prescribed for the purpose of this clause.

Extent of zone - clinics

(2) The access zone for a clinic consists of,

- (a) the property on which the clinic is located and the area within 50 metres, or such other prescribed distance not exceeding 150 metres, from the boundaries of the property; or
- (b) such area with different boundaries, as may be prescribed for the purpose of this clause.

Extent of zone - facilities

(3) The access zone for a facility consists of,

- (a) the property on which the facility is located and the area within the prescribed distance, not exceeding 150 metres, from the boundaries of the property; or
- (b) such area with different boundaries, as may be prescribed for the purpose of this clause.

Limitation

(4) No part of an area prescribed for the purpose of clause (2) (b) or (3) (b) may be further than 150 metres from the closest boundary of the property on which the clinic or facility is located.

Certain property excluded

(5) The access zone for a clinic or facility does not include real property that one or more persons has the exclusive right to use or occupy if none of those persons is the occupier of the clinic or facility.

Regulations only on request, after notice

(6) A regulation prescribing a facility for the purpose of clause (1) (b) or prescribing anything in relation to a clinic or facility for the purpose of subsection (2) or (3) may be made only if the occupier of the clinic or facility,

- (a) has requested the regulation; or
- (b) has been given notice of the intention to make the regulation and a reasonable opportunity to make written submissions before the regulation is made.

Revocations not affected

(7) Subsection (6) does not apply to,

- (a) a regulation that revokes anything prescribed for the purpose of subsection (2) in relation to a clinic that ceases to be a clinic; or
- (b) a regulation that revokes the prescription of a facility for the purpose of clause (1) (b) or that revokes anything prescribed for the purpose of subsection (3) in relation to a facility that ceases to be prescribed for the purpose of clause (1) (b).

Access zones for residences

7 (1) An access zone is established for the residence of each protected service provider.

Extent of zone

(2) The access zone for a residence consists of the property on which the residence is located and the area within 150 metres, or such other prescribed lesser distance, from the boundaries of the property.

Certain property excluded

(3) The access zone for a residence of a protected service provider does not include real property that one or more persons has the exclusive right to use or occupy if none of those persons is the provider or a member of the provider's household.

ENFORCEMENT**Offences**

8 A person who contravenes subsection 3 (1) or section 4 or 5 is guilty of an offence and, on conviction, is liable.

- (a) in the case of a first offence under this Act, to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both;
- (b) in the case of a second or subsequent offence under this Act, to a fine of not less than \$1,000 and not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Limit on conviction - knowledge or notice of zone

9 A person may not be convicted of an offence for contravening subsection 3 (1) or section 4 unless the person knew or, at any time before the contravention, was given notice of, the location of the relevant access zone.

Damages

10 A person who suffers loss as a result of a contravention of subsection 3 (1) or section 4 or 5 by another person has a right of action for damages against that person.

Injunction

11 On application by a person, including the Attorney General, the Superior Court of Justice may grant an injunction to restrain a person from contravening subsection 3 (1) or section 4 or 5.

Arrest without warrant

12 A police officer may arrest without warrant a person the officer believes, on reasonable and probable grounds, has committed, or is committing, an offence under this Act.

REGULATIONS**Regulations**

13 The Attorney General may make regulations,

- (a) prescribing anything that is referred to, in this Act, as prescribed;
- (b) setting out, for information purposes, the names and locations of the clinics in Ontario and descriptions of the access zones established under section 6 for those clinics.

COMMENCEMENT AND SHORT TITLE**Commencement**

14 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15 The short title of the Act set out in this Schedule is the *Safe Access to Abortion Services Act, 2017*.

SCHEDULE 2
FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

1 (1) Subsection 65 (5.7) of the *Freedom of Information and Protection of Privacy Act* is repealed.

(2) Section 65 of the Act is amended by adding the following subsections:

Non-application of Act, provision of abortion services

(13) This Act does not apply to information relating to the provision of abortion services if,

- (a) the information identifies an individual or facility, or it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual or facility; or
- (b) disclosure of the information could reasonably be expected to threaten the health or safety of an individual, or the security of a facility or other building.

Same, pharmacies

(14) A reference in subsection (13) to a facility includes reference to a pharmacy, hospital pharmacy or institutional pharmacy, as those terms are defined in subsection 1 (1) of the *Drug and Pharmacies Regulation Act*.

Related statistical information

(15) For greater certainty, this Act applies to statistical or other information relating to the provision of abortion services that does not meet the conditions of clause (13) (a) or (b).

Commencement

2 This Schedule comes into force on the day the *Protecting a Woman's Right to Access Abortion Services Act, 2017* receives Royal Assent.

EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 163 and does not form part of the law.
Bill 163 has been enacted as Chapter 19 of the Statutes of Ontario, 2017.*

**SCHEDULE 1
SAFE ACCESS TO ABORTION SERVICES ACT, 2017**

The Schedule enacts the *Safe Access to Abortion Services Act, 2017*.

Section 1 provides that the purpose of the Act is to protect access to abortion services.

Section 2 defines a number of terms, including the following:

1. A clinic is a place, other than a place in a hospital, whose primary purpose is to provide abortion services.
2. A facility is either a place, other than a clinic, where abortion services are provided or the office of certain protected service providers.
3. Protected service providers are people who work in clinics or certain health professionals who provide, or assist in the provision of, abortion services.

Sections 3, 4 and 5 set out prohibitions. Section 3 prohibits certain activities in access zones for clinics or facilities. The prohibited activities include advising a person to refrain from accessing abortion services, informing a person concerning issues related to abortion services, performing certain acts of disapproval, certain persistent requests and certain actions for the purpose of dissuading a person from accessing abortion services or dissuading a protected service provider from providing abortion services. Further prohibited activities can be prescribed. Section 4 prohibits certain activities in access zones for residences of protected service providers. The prohibited activities include performing certain acts of disapproval, certain persistent requests and certain actions for the purpose of dissuading a protected service provider from providing abortion services. Section 5 prohibits, in any area, certain activities done for the purpose of dissuading protected service providers from providing abortion services.

Sections 6 and 7 establish access zones for clinics, prescribed facilities and residences of protected service providers. Those sections provide for the extent of the zones and provide for certain property to be excluded.

Sections 8 to 12 provide for enforcement. Section 8 provides for offences. Section 9 provides that a person may not be convicted of an offence for contravening a prohibition in an access zone unless the person knew, or was given notice of, the location of the access zone. Section 10 provides for a right to damages for losses resulting from contraventions. Section 11 provides for injunctions. Section 12 provides for powers of arrest without a warrant.

Section 13 provides for regulations.

**SCHEDULE 2
FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT**

The Schedule amends the *Freedom of Information and Protection of Privacy Act* to remove an existing restriction on the application of the Act to records relating to the provision of abortion services (in subsection 65 (5.7) of the Act) and replace it with a narrower restriction set out in subsections 65 (13) and (14) of the Act. A new subsection 65 (15) is added to confirm that the Act continues to apply to statistical or other information relating to the provision of abortion services that is not referred to in subsection 65 (13).

CHAPITRE 19

Loi édictant la Loi de 2017 sur l'accès sécuritaire aux services d'interruption volontaire de grossesse et modifiant la Loi sur l'accès à l'information et la protection de la vie privée en ce qui a trait aux services d'interruption volontaire de grossesse

Sanctionnée le 25 octobre 2017

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Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Contenu de la présente loi

1 La présente loi est constituée du présent article, des articles 2 et 3 et de ses annexes.

Entrée en vigueur

2 (1) Sous réserve des paragraphes (2) et (3), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.

(2) Les annexes de la présente loi entrent en vigueur comme le prévoit chacune d'elles.

(3) Si une annexe de la présente loi prévoit que l'une ou l'autre de ses dispositions entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation, la proclamation peut s'appliquer à une ou à plusieurs d'entre elles. En outre, des proclamations peuvent être prises à des dates différentes en ce qui concerne n'importe lesquelles de ces dispositions.

Titre abrégé

3 Le titre abrégé de la présente loi est *Loi de 2017 protégeant le droit des femmes à recourir aux services d'interruption volontaire de grossesse*.

ANNEXE 1

LOI DE 2017 SUR L'ACCÈS SÉCURITAIRE AUX SERVICES D'INTERRUPTION VOLONTAIRE DE GROSSESSE

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OBJET

Objet de la Loi

1 La présente loi a pour objet de protéger l'accès aux services d'interruption volontaire de grossesse grâce à la protection de la sécurité, de la santé et de la vie privée des personnes qui cherchent à recourir à de tels services et de celles qui fournissent de tels services ou apportent leur concours à la fourniture de tels services.

INTERPRÉTATION

Définitions

2 Les définitions qui suivent s'appliquent à la présente loi.

«clinique» Lieu, autre qu'un lieu situé dans un hôpital, dont le but principal est de fournir des services d'interruption volontaire de grossesse. («clinic»)

«établissement» S'entend :

a) d'un lieu, autre qu'une clinique, dans lequel des services d'interruption volontaire de grossesse sont fournis, notamment un hôpital, un centre de santé ou une pharmacie où des services d'interruption volontaire de grossesse sont fournis;

b) du cabinet d'une personne qui est un fournisseur de services protégé au sens de l'alinéa b) de la définition de «fournisseur de services protégé». («facility»)

«fournisseur de services protégé» S'entend :

a) d'une personne qui travaille dans une clinique;

b) d'une personne qui fournit des services d'interruption volontaire de grossesse ou apporte son concours à la fourniture de tels services et qui est, selon le cas :

(i) un membre de l'Ordre des médecins et chirurgiens de l'Ontario,

(ii) un membre de l'Ordre des infirmières et infirmiers de l'Ontario,

(iii) un membre de l'Ordre des pharmaciens de l'Ontario qui est titulaire d'un certificat d'inscription à titre de pharmacien,

(iv) un professionnel de la sante réglemente prescrit pour l'application du présent sous-alinéa. («protected service provider»)

«prescrit» Prescrit par les règlements pris en vertu de la présente loi. («prescribed»)

«services d'interruption volontaire de grossesse» S'entend des services légaux fournis pour l'interruption de grossesse, et notamment de la prescription, de la préparation ou de l'administration d'un médicament en vue d'interrompre une grossesse. («abortion services»)

«unité foncière» Relativement à une clinique, un établissement ou une résidence, s'entend :

- a) d'une unité foncière au sens de la *Loi sur l'enregistrement des droits immobiliers* si cette loi s'applique au bien-fonds sur lequel la clinique, l'établissement ou la résidence est situé et que l'alinéa c) ne s'applique pas;
- b) d'une unité foncière au sens de la *Loi sur l'enregistrement des actes* si cette loi s'applique au bien-fonds sur lequel la clinique, l'établissement ou la résidence est situé et que l'alinéa c) ne s'applique pas;
- c) d'une propriété au sens de la *Loi de 1998 sur les condominiums* ou selon ce qui est prescrit pour l'application du présent alinéa, si cette loi régit le bien-fonds sur lequel la clinique, l'établissement ou la résidence est situé par l'effet de l'alinéa 2 (3) a) de cette loi;
- d) d'une unité foncière, selon ce qui est prescrit pour l'application du présent alinéa, si aucun des alinéas a), b) et c) ne s'applique. («property»)

INTERDICTIONS

Interdictions dans les zones d'accès aux cliniques ou aux établissements

3 (1) Dans une zone d'accès créée aux termes de l'article 6 pour une clinique ou un établissement, nul ne doit :

- a) conseiller ou persuader, ou tenter de conseiller ou de persuader, une personne de s'abstenir de recourir à des services d'interruption volontaire de grossesse;
- b) informer ou tenter d'informer une personne, par n'importe quel moyen, y compris des images ou des messages verbaux ou écrits, à propos de questions liées aux services d'interruption volontaire de grossesse;
- c) exécuter ou tenter d'exécuter un acte de désapprobation, par n'importe quel moyen, y compris des images ou des messages verbaux ou écrits, à propos de questions liées aux services d'interruption volontaire de grossesse;
- d) demander avec insistance :
 - (i) qu'une personne s'abstienne de recourir à des services d'interruption volontaire de grossesse,
 - (ii) qu'un fournisseur de services protégé s'abstienne de fournir des services d'interruption volontaire de grossesse ou d'apporter son concours à la fourniture de tels services;
- e) dans le but de dissuader une personne d'avoir recours à des services d'interruption volontaire de grossesse :
 - (i) observer de façon continue ou répétée la clinique ou l'établissement ou les personnes qui entrent dans la clinique ou l'établissement ou qui en sortent,
 - (ii) entraver physiquement une personne ou tenter de le faire,
 - (iii) intimider la personne ou tenter de le faire,
 - (iv) photographier, filmer ou dessiner la personne ou en enregistrer l'image d'une quelconque autre façon;
- f) dans le but de dissuader un fournisseur de services protégé de fournir des services d'interruption volontaire de grossesse ou d'apporter son concours à la fourniture de tels services :
 - (i) observer de façon continue ou répétée la clinique ou l'établissement ou les personnes qui entrent dans la clinique ou l'établissement ou qui en sortent,
 - (ii) entraver physiquement le fournisseur ou tenter de le faire,
 - (iii) intimider le fournisseur ou tenter de le faire,
 - (iv) photographier, filmer ou dessiner le fournisseur ou en enregistrer l'image d'une quelconque autre façon;
- g) accomplir un acte prescrit pour l'application du présent alinéa.

Exception

(2) Les alinéas (1) a), b), c) et d) ne s'appliquent :

- a) ni aux actes accomplis par une personne dans le cadre de son travail dans la clinique ou l'établissement;

- b) ni aux interactions entre une personne ayant recours ou essayant d'avoir recours à des services d'interruption volontaire de grossesse et quelqu'un qui l'accompagne avec le consentement de la personne.

Interdictions dans les zones d'accès aux résidences

4 Dans une zone d'accès créée aux termes de l'article 7 pour la résidence d'un fournisseur de services protégé, nul ne doit :

- a) exécuter ou tenter d'exécuter un acte de désapprobation, adressé au fournisseur ou s'y rapportant, concernant des questions relatives aux services d'interruption volontaire de grossesse, par n'importe quel moyen, y compris des images ou des messages verbaux ou écrits;
- b) demander avec insistance que le fournisseur s'abstienne de fournir des services d'interruption volontaire de grossesse ou d'apporter son concours à la fourniture de tels services;
- c) dans le but de dissuader le fournisseur de fournir des services d'interruption volontaire de grossesse ou d'apporter son concours à la fourniture de tels services :
 - (i) observer de façon continue ou répétée la résidence,
 - (ii) entraver physiquement le fournisseur ou un membre de son foyer ou tenter de le faire,
 - (iii) intimider le fournisseur ou un membre de son foyer ou tenter de le faire,
 - (iv) photographier, filmer ou dessiner le fournisseur ou un membre de son foyer ou en enregistrer l'image d'une quelconque autre façon.

Harcèlement des fournisseurs

5 (1) Nul ne doit faire l'un ou l'autre des actes suivants dans le but de dissuader un fournisseur de services protégé de fournir des services d'interruption volontaire de grossesse ou d'apporter son concours à la fourniture de tels services :

- a) approcher, accompagner ou suivre de façon répétée le fournisseur ou une personne connue de lui;
- b) observer de façon continue ou répétée le fournisseur;
- c) demander avec insistance que le fournisseur s'abstienne de fournir des services d'interruption volontaire de grossesse ou d'apporter son concours à la fourniture de tels services;
- d) adopter une conduite menaçante vis-à-vis du fournisseur ou d'une personne connue de lui.

Idem

(2) Nul ne doit communiquer de façon répétée par téléphone, par télécopie ou par un moyen électronique avec un fournisseur de services protégé ou avec une personne connue du fournisseur, dans le but de dissuader le fournisseur de continuer à fournir des services d'interruption volontaire de grossesse ou à apporter son concours à la fourniture de tels services, après que le destinataire de la communication a demandé l'arrêt d'une telle communication.

ZONES D'ACCÈS

Zones d'accès aux cliniques et aux établissements

6 (1) Une zone d'accès est créée :

- a) pour chaque clinique;
- b) pour chaque établissement prescrit pour l'application du présent alinéa.

Étendue de la zone : cliniques

(2) La zone d'accès pour une clinique correspond :

- a) soit à l'unité foncière sur laquelle est située la clinique et à l'aire située dans un rayon de 50 mètres des limites de l'unité foncière, ou de toute autre distance prescrite ne dépassant pas 150 mètres;
- b) soit à une aire ayant des limites différentes, selon ce qui est prescrit pour l'application du présent alinéa.

Étendue de la zone : établissements

(3) La zone d'accès pour un établissement correspond :

- a) soit à l'unité foncière sur laquelle est situé l'établissement et à l'aire située autour de l'unité foncière, à la distance prescrite, sans toutefois dépasser 150 mètres;
- b) soit à une aire ayant des limites différentes, selon ce qui est prescrit pour l'application du présent alinéa.

Limitation

(4) Aucune partie d'une aire prescrite pour l'application de l'alinéa (2) b) ou (3) b) ne peut être située à plus de 150 mètres de la plus proche limite de l'unité foncière sur laquelle est situé la clinique ou l'établissement.

Exclusion de certains biens immeubles

(5) La zone d'accès pour une clinique ou un établissement n'inclut pas les biens immeubles sur lesquels une ou plusieurs personnes ont un droit d'usage ou d'occupation exclusif si aucune de ces personnes n'occupe la clinique ou l'établissement.

Règlements seulement sur demande, après avis

(6) Un règlement prescrivant un établissement pour l'application de l'alinéa (1) b) ou prescrivant quoi que soit se rapportant à une clinique ou à un établissement pour l'application du paragraphe (2) ou (3) ne peut être pris que si l'occupant de la clinique ou de l'établissement, selon le cas :

- a) a demandé le règlement;
- b) a été avisé de l'intention de prendre le règlement et a eu un délai suffisant pour présenter des observations écrites avant que le règlement ne soit pris.

Abrogations non touchées

(7) Le paragraphe (6) ne s'applique :

- a) ni à un règlement qui abroge tout élément prescrit pour l'application du paragraphe (2) relativement à une clinique qui cesse d'être une clinique;
- b) ni à un règlement qui abroge la prescription d'un établissement pour l'application de l'alinéa (1) b) ou qui abroge tout élément prescrit pour l'application du paragraphe (3) relativement à un établissement qui cesse d'être prescrit pour l'application de l'alinéa (1) b).

Zones d'accès aux résidences

7 (1) Une zone d'accès est créée pour la résidence de chaque fournisseur de services protégé.

Étendue de la zone

(2) La zone d'accès pour une résidence correspond à l'unité foncière sur laquelle est située la résidence et à l'aire située dans un rayon de 150 mètres des limites de l'unité foncière, ou de toute autre distance moindre prescrite.

Exclusion de certains biens immeubles

(3) La zone d'accès pour la résidence d'un fournisseur de services protégé n'inclut pas les biens immeubles sur lesquels une ou plusieurs personnes ont un droit d'usage ou d'occupation exclusif si aucune de ces personnes n'est le fournisseur ou un membre du foyer du fournisseur.

EXÉCUTION**Infractions**

8 Quiconque contrevient au paragraphe 3 (1) ou à l'article 4 ou 5 est coupable d'une infraction et passible, sur déclaration de culpabilité :

- a) dans le cas d'une première infraction à la présente loi, d'une amende maximale de 5 000 \$ et d'un emprisonnement maximal de six mois, ou d'une seule de ces peines;
- b) dans le cas d'une deuxième infraction ou d'une infraction subséquente à la présente loi, d'une amende minimale de 1 000 \$ et d'une amende maximale de 10 000 \$ et d'un emprisonnement maximal d'un an, ou d'une seule de ces peines.

Limite : connaissance ou avis de la zone

9 Une personne ne peut être déclarée coupable d'une infraction pour avoir contrevenu au paragraphe 3 (1) ou à l'article 4 que si elle connaissait l'emplacement de la zone d'accès applicable ou en avait été avisée à tout moment avant la contravention.

Dommages-intérêts

10 La personne qui subit un préjudice par suite d'une contravention au paragraphe 3 (1) ou à l'article 4 ou 5 commise par une autre personne a un droit d'action en dommages-intérêts contre cette personne.

Injonction

11 Sur requête de toute personne, y compris le procureur général, la Cour supérieure de justice peut accorder une injonction pour empêcher une personne de contrevenir au paragraphe 3 (1) ou à l'article 4 ou 5.

Arrestation sans mandat

12 Un agent de police peut arrêter sans mandat une personne s'il croit, en se fondant sur des motifs raisonnables et probables, qu'elle est en train de commettre ou a commis une infraction à la présente loi.

RÈGLEMENTS

Rèlements

13 Le procureur général peut, par règlement :

- a) prescrire tout ce que la présente loi mentionne comme étant prescrit;
- b) énoncer, à titre indicatif, les noms et emplacements des cliniques en Ontario et les descriptions des zones d'accès créées aux termes de l'article 6 pour ces cliniques.

ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ

Entrée en vigueur

14 La loi figurant à la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Titre abrégé

15 Le titre abrégé de la loi figurant à la présente annexe est *Loi de 2017 sur l'accès sécuritaire aux services d'interruption volontaire de grossesse*.

ANNEXE 2
LOI SUR L'ACCÈS À L'INFORMATION ET LA PROTECTION DE LA VIE PRIVÉE

1 (1) Le paragraphe 65 (5.7) de la *Loi sur l'accès à l'information et la protection de la vie privée* est abrogé.

(2) L'article 65 de la Loi est modifié par adjonction des paragraphes suivants :

Non-application de la Loi : fourniture de services d'interruption volontaire de grossesse

(13) La présente loi ne s'applique pas aux renseignements concernant la fourniture de services d'interruption volontaire de grossesse si, selon le cas :

- a) les renseignements identifient un particulier ou un établissement, ou il est raisonnable de prévoir, dans les circonstances, que les renseignements pourraient servir, seuls ou avec d'autres, à identifier un particulier ou un établissement;
- b) il est raisonnable de s'attendre à ce que la divulgation des renseignements ait pour effet de compromettre la santé ou la sécurité d'un particulier, ou la sécurité d'un établissement ou d'un autre bâtiment.

Idem : pharmacies

(14) La mention d'un établissement au paragraphe (13) vaut mention d'une pharmacie, d'une pharmacie en milieu hospitalier ou d'une pharmacie en milieu institutionnel, au sens que le paragraphe 1 (1) de la *Loi sur la réglementation des médicaments et des pharmacies* donne à ces termes.

Données statistiques connexes

(15) Il est entendu que la présente loi s'applique aux renseignements, notamment les renseignements statistiques, se rapportant à la fourniture de services d'interruption volontaire de grossesse qui ne remplissent pas les conditions énoncées à l'alinéa (13) a) ou b).

Entrée en vigueur

2 La présente annexe entre en vigueur le jour où la *Loi de 2017 protégeant le droit des femmes à recourir aux services d'interruption volontaire de grossesse* reçoit la sanction royale.

NOTE EXPLICATIVE

*La note explicative, rédigée à titre de service aux lecteurs du projet de loi 163, ne fait pas partie de la loi.
Le projet de loi 163 a été édité et constitue maintenant le chapitre 19 des Lois de l'Ontario de 2017.*

ANNEXE 1

LOI DE 2017 SUR L'ACCÈS SÉCURITAIRE AUX SERVICES D'INTERRUPTION VOLONTAIRE DE GROSSESSE

L'annexe édicte la *Loi de 2017 sur l'accès sécuritaire aux services d'interruption volontaire de grossesse*.

L'article 1 prévoit que la Loi a pour objet de protéger l'accès aux services d'interruption volontaire de grossesse.

L'article 2 définit un certain nombre de termes, dont les suivants :

1. Une clinique est un lieu, autre qu'un lieu situé dans un hôpital, dont le but principal est de fournir des services d'interruption volontaire de grossesse.
2. Un établissement est soit un lieu, autre qu'une clinique, dans lequel des services d'interruption volontaire de grossesse sont fournis, soit le cabinet de certains fournisseurs de services protégés.
3. Les fournisseurs de services protégés sont des gens qui travaillent dans des cliniques ou certains professionnels de la santé qui fournissent des services d'interruption volontaire de grossesse ou apportent leur concours à la fourniture de tels services.

Les articles 3, 4 et 5 énoncent les interdictions. L'article 3 interdit certains actes dans les zones d'accès aux cliniques ou aux établissements. Les actes interdits comprennent le fait de conseiller une personne de s'abstenir de recourir à des services d'interruption volontaire de grossesse, d'informer une personne à propos de questions liées aux services d'interruption volontaire de grossesse, d'exécuter certains actes de désapprobation, de faire certaines demandes avec insistance et d'accomplir certaines actions dans le but de dissuader une personne d'avoir recours à des services d'interruption volontaire de grossesse ou dans le but de dissuader un fournisseur de services protégé de fournir des services d'interruption volontaire de grossesse. D'autres actes interdits peuvent être prescrits. L'article 4 interdit certains actes dans les zones d'accès aux résidences des fournisseurs de services protégés. Les actes interdits comprennent le fait d'exécuter certains actes de désapprobation, de faire certaines demandes avec insistance et d'accomplir certaines actions dans le but de dissuader un fournisseur de services protégé de fournir des services d'interruption volontaire de grossesse. L'article 5 interdit l'accomplissement, dans un lieu, de certains actes dans le but de dissuader des fournisseurs de services protégés de fournir des services d'interruption volontaire de grossesse.

Les articles 6 et 7 créent des zones d'accès pour les cliniques, les établissements prescrits et les résidences des fournisseurs de services protégés. Ces articles prévoient l'étendue de ces zones et prévoient que certaines unités foncières en sont exclues.

Les articles 8 à 12 prévoient les mesures d'exécution. L'article 8 prévoit des infractions. L'article 9 prévoit qu'une personne ne peut pas être déclarée coupable d'une infraction pour avoir contrevenu à une interdiction dans une zone d'accès que si elle connaissait l'emplacement de la zone d'accès ou en avait été avisée. L'article 10 prévoit le droit à des dommages-intérêts pour les préjudices subis par suite de contraventions. L'article 11 prévoit des injonctions et l'article 12, des pouvoirs d'arrestation sans mandat.

L'article 13 prévoit des règlements.

ANNEXE 2

LOI SUR L'ACCÈS À L'INFORMATION ET LA PROTECTION DE LA VIE PRIVÉE

L'annexe modifie la *Loi sur l'accès à l'information et la protection de la vie privée* pour supprimer une restriction existante concernant l'application de la Loi aux documents se rapportant à la fourniture de services d'interruption volontaire de grossesse (restriction énoncée au paragraphe 65 (5.7) de la Loi) et la remplacer par une restriction plus étroite énoncée aux paragraphes 65 (13) et (14) de la Loi. Un nouveau paragraphe 65 (15) est ajouté pour confirmer que la Loi continue de s'appliquer aux renseignements, notamment les renseignements statistiques, se rapportant à la fourniture de services d'interruption volontaire de grossesse qui ne sont pas visés au paragraphe 65 (13).

CHAPTER 20

An Act to cut unnecessary red tape by enacting one new Act and making various amendments and repeals

Assented to November 14, 2017

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Schedule 10	Ministry of Municipal Affairs
Schedule 11	Accessibility Amendments

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Cutting Unnecessary Red Tape Act, 2017*.

SCHEDULE 1
MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS

1 (1) Subsection 3 (2) of the *Farming and Food Production Protection Act, 1998* is repealed and the following substituted:

Chair, vice-chairs

(2) The Minister may designate one of the members of the Board as chair and may designate one or more vice-chairs from among the remaining members.

(2) Subsection 3 (4) of the Act is amended by striking out "the vice-chair has all the powers of the chair" at the end and substituting "one of the vice-chairs may exercise the powers of the chair".

(3) Subsection 3 (9) of the Act is amended by striking out "The chair or vice-chair" at the beginning and substituting "The chair or a vice-chair".

Commencement

2 This Schedule comes into force on the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

SCHEDULE 2
MINISTRY OF THE ATTORNEY GENERAL

CHARITIES ACCOUNTING ACT

1 Section 10.1 of the *Charities Accounting Act* is amended by adding “Except as provided under subsection 10.3 (3)” at the beginning.

2 The Act is amended by adding the following sections:

Social investments

10.2 (1) This section applies for the purposes of sections 10.3 and 10.4.

Interpretation, social investment

(2) A social investment is made when a trustee applies or uses trust property in order to,

- (a) directly further the purposes of the trust; and
- (b) achieve a financial return, within the meaning of subsection (3), for the trust.

Interpretation, achieving a financial return

(3) The application or use of trust property shall be considered as achieving a financial return if the outcome in respect of the trust property is better for the trust in financial terms than expending all the property.

Additional results

(4) The fact that the application or use of trust property may have other results in addition to the results referred to in clauses (2) (a) and (b) does not prevent it from being regarded as the making of a social investment.

Nature of social investment

(5) A social investment for the purposes of sections 10.3 and 10.4 is not, for that reason alone, an investment for any other purpose.

Terms of corporate trust

(6) For the purposes of sections 10.3 and 10.4, the constating documents of a corporation that is deemed to be a trustee under subsection 1 (2) form part of the terms of the trust.

Protection from liability

(7) A trustee is not liable for loss to the trust arising from the making of a social investment if, in doing so, the trustee acted honestly and in good faith in accordance with the duties, restrictions and limitations that apply under this Act and the terms of the trust.

Power to make social investments

10.3 (1) A trustee may make social investments, subject to subsection (2).

Limitation

(2) A social investment may not be made in relation to trust property that is subject to a limitation on capital being expended for the purposes of the trust, unless the trustee expects that making the social investment will not contravene the limitation or the terms of the trust allow for such an investment.

Application of certain investment rules

(3) Subsections 27 (3) and (4) of the *Trustee Act* apply with necessary modifications with respect to the making of social investments, otherwise, sections 27 to 29 of that Act do not apply to the making of social investments.

Powers may be restricted, excluded

(4) The power conferred by this section may be restricted or excluded by the terms of the trust.

Trustee duties re social investments

10.4 (1) Before making a social investment, a trustee shall,

- (a) determine whether, in the circumstances, advice should be obtained respecting the proposed social investment and, if so, obtain and consider the advice; and
- (b) satisfy him-her or itself that it is in the interests of the trust to make the social investment, having regard to the benefit expected to be achieved for the trust.

On-going review

(2) A trustee shall, from time to time, review the social investments of the trust property.

Same, advice

(3) In undertaking a review under subsection (2), a trustee shall determine whether, in the circumstances, advice should be obtained respecting a social investment and, if so, obtain and consider the advice.

Reliance on advice

(4) It is not a breach of trust for a trustee to rely on advice obtained under clause (1) (a) or subsection (3).

Duties may not be restricted, excluded

(5) The duties under this section may not be restricted or excluded by the terms of the trust.

COURTS OF JUSTICE ACT

3 Section 47 of the *Courts of Justice Act* is amended by adding the following subsection:

Appointment after reaching 65 years

(8) This section applies, with necessary modifications, to a person appointed as a provincial judge, or as a Chief Justice, associate chief justice or regional senior judge, after reaching 65 years of age.

4 Subsections 87.2 (11) and (12) of the Act are repealed.**5 The Act is amended by adding the following section:****Complaint**

87.3 (1) Any person may make a complaint alleging misconduct by the Small Claims Court Administrative Judge to the Chief Justice of the Superior Court of Justice.

Dismissal

(2) The Chief Justice shall review the complaint and may dismiss it without further investigation if, in his or her opinion, it is frivolous or an abuse of process, or concerns a minor matter to which an appropriate response has already been given.

Notice of dismissal

(3) The Chief Justice shall notify the Small Claims Court Administrative Judge and the complainant in writing of a dismissal under subsection (2), giving brief reasons for it.

Committee

(4) If the complaint is not dismissed, the Chief Justice shall refer it to a committee consisting of three persons determined in accordance with subsection (5).

Same

(5) The three persons shall be chosen by the Chief Justice, and shall be a judge of the Superior Court of Justice, a deputy judge and a person who is neither a judge nor a lawyer.

Investigation

(6) The committee shall investigate the complaint in the manner it considers appropriate, and the complainant and the Small Claims Court Administrative Judge shall be given an opportunity to make representations to the committee, in writing or, at the committee's option, orally.

Recommendation

(7) The committee shall make a report to the Chief Justice, recommending a disposition in accordance with subsection (8).

Disposition

(8) The Chief Justice may dismiss the complaint, with or without a finding that it is unfounded, or, if he or she concludes that the Small Claims Court Administrative Judge's conduct presents grounds for imposing a sanction, may:

- (a) warn the Small Claims Court Administrative Judge;
- (b) reprimand the Small Claims Court Administrative Judge;
- (c) order the Small Claims Court Administrative Judge to apologize to the complainant or to any other person;
- (d) order that the Small Claims Court Administrative Judge take specified measures, such as receiving education or treatment;
- (e) suspend the Small Claims Court Administrative Judge for a period of up to 30 days;

- (f) direct that no judicial duties or only specified judicial duties be assigned to the Small Claims Court Administrative Judge;
- (g) recommend to the Attorney General that the Small Claims Court Administrative Judge be removed from office, or
- (h) adopt any combination of the dispositions set out in clauses (a) to (g).

Cause for removal

(9) A recommendation for removal may only be made on the basis of a ground listed in clause 51.8 (1) (b), and any such recommendation shall specify the ground on which it is made.

Recommendation for removal

(10) In making a recommendation for removal to the Attorney General, the Chief Justice shall include with the recommendation,

- (a) a copy of the committee's report; and
- (b) if the recommendation of the Chief Justice does not accord with the report, reasons for his or her recommendation.

Non-identification

(11) If the complaint involves an allegation of sexual misconduct or sexual harassment, an alleged victim of the misconduct or harassment shall not, on that person's request, be identified in the report provided to the Attorney General under clause (10) (a) or in any reasons provided under clause (10) (b).

Report, reasons may be made public

(12) The Attorney General may make the report and any reasons public if he or she is of the opinion that it is in the public interest.

Tabling

(13) If the Chief Justice makes a recommendation for removal under clause (8) (g), the Attorney General shall table the recommendation, including the ground on which the recommendation is made, in the Assembly.

Order for removal

(14) The Lieutenant Governor may, on the basis of a recommendation for removal, order the removal of the Small Claims Court Administrative Judge from office on the address of the Assembly.

Compensation

(15) Subsections §6 2 (10), (11), (12), (13) and (14) apply with necessary modifications with respect to the compensation of costs incurred by the Small Claims Court Administrative Judge for legal services in relation to a complaint.

Delegation

(16) The Chief Justice may delegate his or her powers, duties and functions under this section to the Associate Chief Justice of the Superior Court of Justice, a regional senior judge of the Superior Court of Justice, or the Senior Judge of the Family Court.

Same

(17) The Chief Justice may delegate his or her powers, duties and functions under subsections (2), (3) and (4) to a judge of the Superior Court of Justice, but a judge who acts under any of those subsections in relation to a complaint may not be chosen under subsection (5) to be part of a committee to investigate the complaint.

Non-application of SPPA

(18) The *Statutory Powers Procedure Act* does not apply to a judge or member of a committee acting under this section.

Personal liability

(19) No action or other proceeding for damages shall be instituted against a judge or member of a committee for any act done in good faith in the execution or intended execution of any power or duty of the person under this section, or for any neglect or default in the exercise or performance in good faith of such power or duty.

6 The Act is amended by adding the following Part:

PART VII.1
ENFORCEMENT OF CERTAIN TRADE AGREEMENTS

Application

148.1 This Part applies to the following agreements:

1. The Agreement on Internal Trade, signed in 1994 by the governments of Canada, the provinces of Canada, the Northwest Territories and the Yukon Territory, as amended from time to time.
2. The Canadian Free Trade Agreement, signed in 2017 by the governments of Canada and the provinces and territories of Canada, as amended from time to time.
3. Other prescribed domestic trade agreements that the Government of Ontario has entered into with the government of another province or territory of Canada, the Government of Canada or any combination of those governments.

Enforcement of order to pay tariff costs

148.2 (1) An order against a person to pay tariff costs to a party to an agreement listed in section 148.1 may, for the purpose of its enforcement only, be made an order of the Superior Court of Justice if the order is against,

- (a) a person who initiated the complaint; or
- (b) a person who was added to the complaint as a co-party with a person who initiated the complaint.

Procedure

(2) To enforce an order described in subsection (1), a party in whose favour the order is made shall file a certified copy of the order with the Superior Court of Justice.

Effect

(3) From the date of filing, the order has the same effect as an order of the Superior Court of Justice for the purpose of enforcement to the extent that it is authorized by the applicable agreement.

Date of order

(4) For the purposes of section 129, the date on which the order is filed with the Superior Court of Justice shall be deemed to be the date of the order.

Regulations

148.3 The Lieutenant Governor in Council may make regulations prescribing agreements as domestic trade agreements for the purposes of this Part.

INTERJURISDICTIONAL SUPPORT ORDERS ACT, 2002

7 (1) The English version of the *Interjurisdictional Support Orders Act, 2002* is amended by striking out “ordinarily resides” wherever it appears in the following provisions and substituting “is habitually resident” in each case:

1. Clause 5 (2) (b).
2. Clause 6 (2) (b).
3. Subsection 7 (1).
4. Section 9.
5. Clause 27 (2) (c).
6. Clause 28 (2) (b).
7. Subsection 30 (1).
8. Section 32.
9. Section 35.
10. Section 38.
11. Clause 39 (1) (c).
12. Subsection 54 (3).

(2) The English version of the Act is amended by striking out “ordinary residence” wherever it appears in the following provisions and substituting “habitual residence” in each case:

1. Section 9.
2. Section 32.

8 The definition of “support order” in section 1 of the Act is repealed and the following substituted:

“support order” means an order requiring the payment of support that is made by a court or by an administrative body, and includes,

- (a) the provisions of a written agreement requiring the payment of support if they are enforceable in the jurisdiction in which the agreement was made as if they were contained in an order of a court of that jurisdiction; and
- (b) the calculation or recalculation by an administrative body of the payment of support for a child, if the calculation or recalculation is enforceable in the jurisdiction in which the calculation or recalculation was made as if it were an order of, or were contained in an order of, a court of that jurisdiction. (“ordonnance alimentaire”)

9 Subsection 5 (1) of the Act is amended by striking out “A claimant who ordinarily resides in Ontario and believes that the respondent ordinarily resides in a reciprocating jurisdiction” at the beginning and substituting “A claimant who resides in Ontario and believes that the respondent habitually resides in a reciprocating jurisdiction”.

10 Section 10 of the Act is amended by adding the following subsection:

No requirement to serve claimant

- (2) There is no requirement for the claimant to be served with the notice, information or documents referred to in clause (1) (b).

11 (1) Subsection 11 (4) of the Act is amended by striking out “18 months” and substituting “12 months”.

(2) Section 11 of the Act is amended by adding the following subsection:

Transition

(4.1) Subsection (4), as it read immediately before the day subsection 11 (1) of Schedule 2 to the *Cutting Unnecessary Red Tape Act, 2017* came into force, continues to apply to a request made before that day.

(3) Subsection 11 (4.1) of the Act, as enacted by subsection (2), is repealed.

12 Paragraph 1 of section 13 of the Act is repealed and the following substituted:

1. In determining a child’s entitlement to support, the Ontario court shall first apply Ontario law, but if the child is not entitled to support under Ontario law, the Ontario court shall apply the law of the jurisdiction in which the child is habitually resident.

13 Section 14 of the Act is amended by adding the following subsection:

Choice of law

(3.1) A support order shall specify the law applied in making the order, and if the order does not specify the law applied, the order is deemed to have been made under Ontario law.

14 (1) Subsection 18 (1) of the Act is amended by striking out “any party who is believed to ordinarily reside in Ontario” at the end and substituting “any party who is believed to be habitually resident in Ontario or believed to own assets or have a source of income in Ontario”.

(2) Subsection 18 (2) of the Act is amended by striking out “where the party is believed to reside” at the end and substituting “where the party is believed to reside or believed to own assets or have a source of income”.

15 Section 19 of the Act is amended by adding the following subsections:

Applicable law – duration of support

(8) Unless otherwise stated in the order, the duration of the support obligation in an order registered under subsection (1) is governed by the law of the jurisdiction in which the order was made.

Ontario law applied

(9) If the designated authority is unable to determine the duration of the support obligation in accordance with subsection (8) based on the information received from the applicant or the appropriate authority in the reciprocating jurisdiction, the designated authority may enforce the support order for the duration determined under Ontario law.

16 (1) Subsection 20 (1) of the Act is repealed and the following substituted:

Notice of registration, order made outside Canada

(1) After the registration of an order made in a reciprocating jurisdiction outside Canada, the clerk of the Ontario court shall, in accordance with the regulations, give notice of the registration of the order to,

- (a) any party to the order who is believed to reside in Ontario; and
- (b) the party required to pay support under the order if that party lives in another jurisdiction and is believed to own assets or have a source of income in Ontario.

(2) The English version of clause 20 (6) (a) of the Act is amended by striking out “ordinarily reside” and substituting “are habitually resident”.

(3) Clause 20 (6) (b) of the Act is repealed and the following substituted:

- (b) if a party is not habitually resident in the reciprocating jurisdiction outside Canada but is subject to the jurisdiction of the court that made the order, as determined under Ontario law.

17 Subsection 27 (1) of the Act is amended by striking out “An applicant who ordinarily resides in Ontario and believes that the respondent ordinarily resides in a reciprocating jurisdiction” at the beginning and substituting “An applicant who resides in Ontario and believes that the respondent habitually resides in a reciprocating jurisdiction”.

18 Section 29 of the Act is amended by striking out “If the applicant ordinarily resides in Ontario and the respondent no longer ordinarily resides in a reciprocating jurisdiction” at the beginning and substituting “If the applicant resides in Ontario and the respondent no longer habitually resides in a reciprocating jurisdiction”.

19 Section 33 of the Act is amended by adding the following subsection:

No requirement to serve applicant

- (2) There is no requirement for the applicant to be served with the notice, information or documents referred to in clause (1) (b).

20 (1) Subsection 34 (4) of the Act is amended by striking out “18 months” and substituting “12 months”.

(2) Section 34 of the Act is amended by adding the following subsection:

Transition

(4.1) Subsection (4), as it read immediately before the day subsection 20 (1) of Schedule 2 to the *Cutting Unnecessary Red Tape Act, 2017* came into force, continues to apply to a request made before that day.

(3) Subsection 34 (4.1) of the Act, as enacted by subsection (2), is repealed.

21 (1) Paragraph 1 of section 35 of the Act is repealed and the following substituted:

1. In determining a child's entitlement to receive or to continue to receive support, the Ontario court shall first apply Ontario law, but if the child is not entitled to support under Ontario law, the Ontario court shall apply the law of the jurisdiction in which the child is habitually resident.

(2) Paragraph 2 of section 35 of the Act is repealed and the following substituted:

2. In determining the amount of support for a child, the Ontario court shall apply Ontario law.

(3) Paragraph 3 of section 35 of the Act is amended by,

- (a) striking out “the entitlement of the applicant” in the portion before subparagraph i and substituting “the entitlement of a party to the application”; and
- (b) striking out “but if the applicant is not entitled to support” in the portion before subparagraph i and substituting “but if the party is not entitled to support”.
- (4)** Subparagraph 3 i of section 35 of the Act is amended by striking out “applicant” and substituting “party”.
- (5)** Subparagraph 3 ii of section 35 of the Act is amended by striking out “applicant” and substituting “party”.
- (6)** Paragraph 4 of section 35 of the Act is amended by striking out “applicant” and substituting “party”.

22 (1) Subsection 36 (1) of the Act is amended by striking out “the applicant” in the portion before clause (a) and substituting “a party”.

(2) Section 36 of the Act is amended by adding the following subsection:

Choice of law

(3.1) A support variation order shall specify the law applied in making the order, and if the order does not specify the law applied, the order is deemed to have been made under Ontario law.

23 (1) Subsection 39 (1) of the Act is amended by striking out “vary a support order registered in Ontario under Part III or the former Act” in the portion before clause (a) and substituting “vary a support order made or registered in Ontario under this Act or the former Act”.

(2) The English version of clause 39 (1) (b) of the Act is amended by striking out “ordinarily reside” and substituting “are habitually resident”.

24 Clause 53 (d) of the Act is repealed and the following substituted:

- (d) governing the conversion into Canadian currency of support amounts that are not expressed in Canadian currency, including,
- (i) respecting conversion for the purposes of section 44, and
- (ii) providing for or requiring further conversions of amounts converted under section 44 and governing such conversions;

INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ACT (AIRCRAFT EQUIPMENT), 2002

25 (1) The French version of clause b) of paragraph 3 of Article 30 of Schedule 1 to the *International Interests in Mobile Equipment Act (Aircraft Equipment)*, 2002 is repealed and the following substituted:

- b) a toute règle de procédure relative à l'exercice de droits sur des biens soumis au contrôle ou à la surveillance de l'administrateur d'insolvabilité.

(2) The French version of paragraph 6 of Article 51 of Schedule 1 to the Act is repealed and the following substituted:

6. L'article 45 bis de la présente Convention ne s'applique à un tel Protocole que si celui-ci le prévoit expressément

26 The French version of the title of the annex in Schedule 2 to the Act is amended by adding the following after "FORMULAIRE D'AUTORISATION IRRÉVOCABLE DE DEMANDE DE RADIATION DE L'IMMATRICULATION ET DE PERMIS D'EXPORTATION":

Annexe visée à l'article XIII

JURIES ACT

27 Section 1 of the *Juries Act* is amended by adding the following definition:

"jury questionnaire" means the form prescribed by the regulations for the purposes of subsection 6 (1); ("questionnaire pour la sélection d'un jury")

28 The French version of paragraph 6 of subsection 3 (1) of the Act is amended by striking out "d'institut correctionnel" and substituting "d'établissement correctionnel".

29 Subclause 5 (3) (a) (ii) of the Act is amended by striking out "jury service notices" and substituting "jury questionnaires".

30 (1) Subsection 6 (1) of the Act is amended by,

- (a) striking out "a jury service notice, together with a return to the jury service notice in the form prescribed by the regulations" and substituting "a jury questionnaire in the form prescribed by the regulations"; and
- (b) striking out "by first class mail".

(2) Subsection 6 (2) of the Act is amended by striking out "The persons to whom jury service notices are mailed under this section" at the beginning and substituting "The persons to whom jury questionnaires are mailed under subsection (1)".

(3) Subsection 6 (4) of the Act is amended by striking out "The jury service notice to a person under this section" at the beginning and substituting "The jury questionnaire".

(4) Subsection 6 (5) of the Act is repealed and the following substituted:

Return of jury questionnaire

(5) Every person to whom a jury questionnaire is mailed under subsection (1) shall, within 30 days after receiving it, accurately and truthfully complete it and return it to the sheriff for the county by mail or by such electronic method as may be specified in the questionnaire.

(5) Subsection 6 (6) of the Act is amended by striking out "the notice" wherever it appears and substituting in each case "the jury questionnaire".

(6) Subsection 6 (7) of the Act is amended by,

- (a) striking out "jury service notices" wherever it appears and substituting in each case "jury questionnaires"; and
- (b) striking out "under this section" and substituting "under subsection (1)".

31 (1) Subsection 8 (1) of the Act is repealed and the following substituted:

Entry of names in jury roll

(1) The sheriff shall cause the name, address and occupation of each person who is shown, by a returned jury questionnaire, to be eligible for jury service to be entered in the jury roll, alphabetically arranged and numbered consecutively

(2) Paragraphs 1, 2 and 3 of subsection 8 (2) of the Act are amended by striking out "by the returns to jury service notices" wherever it appears and substituting in each case "by the returned jury questionnaires".

(3) Subsection 8 (4) of the Act is amended by striking out "additional jury service notices and forms of returns to jury service notice" and substituting "additional jury questionnaires".

(4) Subsection 8 (5) of the Act is amended by striking out "jury service notices" and substituting "jury questionnaires".

32 (1) Subsection 19 (1) of the Act is amended by striking out “by sending to the person by ordinary mail a notice in writing in the form prescribed by the regulations under the hand of the sheriff” and substituting “by mailing to the person a notice in the form prescribed by the regulations”.

(2) Section 19 of the Act is amended by adding the following subsection:

Summons may be provided electronically

(1.1) Despite subsection (1), the sheriff may provide the form to the person in electronic format, if, in his or her returned jury questionnaire, the person consents to the provision and specifies contact information for the purpose.

33 Subsection 27 (1) of the Act is repealed and the following substituted:

Empanelling jury at the trial

(1) The name of every person summoned to attend as a juror, with the person’s place of residence, occupation and number on the panel list, shall be written on separate cards or papers, all of which shall, to the extent possible, be of equal size.

Same

(1.1) The cards or papers shall, under the direction of the sheriff, be put together in a container provided by the sheriff for the purpose, which the sheriff shall then deliver to the clerk of the court.

34 (1) Subsection 38 (3) of the Act is amended by striking out “to complete a return to a jury service notice” in the portion before clause (a) and substituting “to complete a jury questionnaire”.

(2) Clause 38 (3) (a) of the Act is repealed and the following substituted:

(a) without reasonable excuse fails to complete the questionnaire or return it to the sheriff in accordance with subsection 6 (5); or

(3) Clause 38 (3) (b) of the Act is amended by striking out “the return” at the end and substituting “the questionnaire”.

(4) Subsection 38 (4) of the Act is repealed and the following substituted:

Evidence

(4) For the purposes of subsection (3), the failure of the sheriff to receive a completed jury questionnaire from a person within the time specified by subsection 6 (5) is proof, in the absence of evidence to the contrary, that the person failed to return the questionnaire in the time required.

(5) Subsection 38 (5) of the Act is amended by striking out “a return to a jury service notice” and substituting “a completed jury questionnaire”.

JUSTICES OF THE PEACE ACT

35 Section 6 of the *Justices of the Peace Act* is amended by adding the following subsection:

Appointment after reaching 65 years

(6) This section applies, with necessary modifications, to a person appointed as a justice of the peace or as a regional senior justice of the peace after reaching 65 years of age.

36 Section 13.1 of the Act is amended by adding the following subsection:

Delegation

(6) The Chief Justice of the Ontario Court of Justice may delegate the authority to exercise his or her functions under subsections (2) to (5) with respect to justices of the peace in a region to the regional senior judge or the regional senior justice of the peace of the region.

NOTARIES ACT

37 Subsection 2 (1) of the *Notaries Act* is amended by striking out “being a Canadian citizen”.

PROVINCIAL OFFENCES ACT

38 Section 30 of the *Provincial Offences Act* is amended by adding the following subsection:

Delegation

(5) The Chief Justice of the Ontario Court of Justice may delegate the authority to exercise his or her functions under subsection (2) or (3) with respect to justices in a region to the regional senior judge or the regional senior justice of the peace of the region.

COMMENCEMENT

Commencement

39 (1) Subject to subsections (2) and (3), this Schedule comes into force on the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(2) Subsections 11 (3) and 20 (3) come into force 18 months after the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(3) Sections 27 to 34 come into force on the later of the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent and January 1, 2018.

SCHEDULE 3
REPEAL OF THE EMPLOYERS AND EMPLOYEES ACT

EMPLOYERS AND EMPLOYEES ACT

1 The *Employers and Employees Act* is repealed.

CO-OPERATIVE CORPORATIONS ACT

2 Subsection 103 (1) of the *Co-operative Corporations Act* is amended by striking out “to whom the *Employers and Employees Act* applies”.

PROCEEDINGS AGAINST THE CROWN ACT

3 Subsection 2 (2) of the *Proceedings Against the Crown Act* is amended by striking out “or” at the end of clause (d) and by repealing clause (e).

COMMENCEMENT

Commencement

4 This Schedule comes into force on the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

SCHEDULE 4 REDUCING REGULATORY COSTS FOR BUSINESS ACT, 2017

Preamble

Ontario is committed to fostering a strong business climate that supports growth while ensuring appropriate regulatory oversights that protect the public, workers and the environment.

Ontario recognizes that modern regulations protect the public interest, including health, safety and the environment, while enabling economic growth, prosperity and a competitive business climate.

As a part of Ontario's regulatory modernization efforts, the province is committed to reducing unnecessary red tape while also ensuring the public interest is protected, and to supporting business needs and ensuring that interactions with government are efficient and straightforward.

Ontario is dedicated to a regulatory environment that considers both costs and benefits as part of the evidence, utilizes recognized standards, considers the unique needs of small businesses, provides digital options and recognizes businesses with excellent compliance records.

INTERPRETATION

Definitions

1 (1) In this Act,

"administrative cost" means a cost that is imposed on a business as a consequence of complying with a regulation and that is prescribed for the purposes of this definition; ("frais administratifs")

"business", subject to the regulations, includes every trade, occupation, profession, service or venture carried on with a view to profit; ("entreprise")

"prescribed" means prescribed by regulations made under this Act; ("prescrit")

"recognized standards" means requirements that have been set by standard development organizations that have been accredited by the Standards Council of Canada, or by similar standard development organizations; ("normes reconnues")

"regulation governed by this Act" means,

- (a) subject to any prescribed exceptions, a regulation made or approved by the Lieutenant Governor in Council, and
- (b) any other regulation, order or instrument that may be prescribed. ("règlement régi par la présente loi")

Making or approving a regulation

(2) For greater certainty, a reference in this Act to making or approving a regulation governed by this Act includes both making or approving a new regulation and making or approving an amendment to an existing regulation.

CONTROL OF ADMINISTRATIVE COSTS

Offset of administrative costs

2 (1) Where a regulation governed by this Act is made or approved and has the effect of creating or increasing one or more administrative costs, a prescribed offset must be made within a prescribed time after the regulation is made or approved.

Public interest

(2) If an offset required under subsection (1) is proposed to be made through a regulation made or approved by the Lieutenant Governor in Council, the Lieutenant Governor in Council shall, before making or approving the regulation, review it to take into account the protection of the public interest, including health, safety and the environment.

Analysis of regulatory impact

3 Where it is proposed to make a regulation governed by this Act, the Minister responsible for the administration of the regulation shall ensure that,

- (a) in the prescribed circumstances, an analysis of the potential regulatory impact is conducted, including the prescribed administrative costs; and
- (b) the analysis is published in the prescribed manner.

SMALL BUSINESS COMPLIANCE

Small business compliance

4 (1) The Lieutenant Governor in Council and any other prescribed entity that makes or approves a regulation governed by this Act that imposes requirements on businesses shall ensure that the regulation includes, where appropriate, less onerous compliance requirements to apply to small businesses.

Same

(2) Every Minister responsible for the administration of a regulation governed by this Act shall ensure that when the regulation is reviewed for any reason, a determination is made as to whether the regulation imposes requirements on businesses and, where appropriate, steps are taken to amend or replace the regulation in order to establish less onerous requirements to apply to small businesses.

STANDARDS

Recognized standards

5 (1) The Lieutenant Governor in Council and any other prescribed entity that makes or approves a regulation governed by this Act that imposes requirements on businesses shall ensure that the regulation, where appropriate, adopts recognized standards.

Same

(2) Every Minister responsible for the administration of a regulation governed by this Act shall ensure that when the regulation is reviewed for any reason, a determination is made as to whether the regulation imposes requirements on businesses and, where appropriate, steps are taken to amend or replace the regulation in order to adopt recognized standards.

ELECTRONIC TRANSMISSION OF DOCUMENTS

Electronic transmission of documents

6 A business that is required, for any reason, to submit documents to a Ministry of the Government of Ontario in order to comply with a regulation may, at the option of the business, submit the documents electronically.

RECOGNITION OF EXCELLENT COMPLIANCE

Recognition of excellent compliance

7 Every Ministry of the Government of Ontario that administers regulatory programs shall develop a plan to recognize businesses that demonstrate excellent compliance with regulatory requirements.

IMMUNITY

Immunity

8 (1) No action or other proceeding shall be commenced against the Crown or any of its agencies with respect to anything done or omitted to be done, or purported to be done or omitted to be done, under this Act.

Validity of regulations

(2) No regulation is invalid by reason only of a failure to comply with any provision of this Act.

REGULATIONS

Regulations, Minister

9 The Minister responsible for the administration of this Act may make regulations providing for exemptions from any requirement under section 6 or 7, and may make such an exemption subject to conditions or limitations.

Regulations, LG in C

10 (1) Subject to section 9, the Lieutenant Governor in Council may make regulations respecting anything provided for in this Act and for carrying out the purposes, provisions and intent of this Act.

Same

(2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) respecting anything that may be prescribed under this Act;
- (b) defining words and expressions used in this Act that are not otherwise defined in this Act;
- (c) prescribing costs for the purposes of the definition of “administrative cost” in subsection 1 (1);
- (d) clarifying the definition of “business” in subsection 1 (1) and providing for exemptions from that definition;

- (e) governing how administrative costs are to be measured and offset under section 2, prescribing offsets and setting requirements and formulas for offsets, and establishing time periods for when offsets must be made;
- (f) governing the analysis required under section 3, including governing the circumstances when an analysis of the regulatory impact is to be conducted, the scope of the administrative costs to be considered in the analysis of the regulatory impact, and the manner in which the analysis is to be published;
- (g) providing for exemptions from anything under this Act that are not provided for in section 9 and making any such exemption subject to conditions or limitations.

COMMENCEMENT AND SHORT TITLE

Commencement

11 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12 The short title of the Act set out in this Schedule is the *Reducing Regulatory Costs for Business Act, 2017*.

SCHEDULE 5
MINISTRY OF THE ENVIRONMENT AND CLIMATE CHANGE

ENVIRONMENTAL PROTECTION ACT

1 (1) The definition of “Minister” in subsection 1 (1) of the *Environmental Protection Act* is repealed and the following substituted:

“Minister” means the Minister of the Environment and Climate Change or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

(2) The definition of “Ministry” in subsection 1 (1) of the Act is repealed and the following substituted:

“Ministry” means the ministry of the Minister; (“ministère”)

(3) Paragraph 2 of subsection 19 (12) of the Act is amended by striking out “this Act or the *Ontario Water Resources Act*” and substituting “any Act administered by the Minister”.

PESTICIDES ACT

2 (1) The definition of “Minister” in subsection 1 (1) of the *Pesticides Act* is repealed and the following substituted:

“Minister” means the Minister of the Environment and Climate Change or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

(2) The definition of “Ministry” in subsection 1 (1) of the Act is repealed and the following substituted:

“Ministry” means the ministry of the Minister; (“ministère”)

(3) Subsection 1 (1) of the Act is amended by adding the following definition:

“public servant” means a public servant appointed under Part III of the *Public Service of Ontario Act, 2006*; (“fonctionnaire”)

(4) Subsection 3 (1) of the Act is repealed and the following substituted:

Appointment of Directors

(1) The Minister may appoint as Directors such public servants who work in the Ministry as the Minister considers necessary for the purposes of the sections of this Act or the regulations that are set out in the appointments.

(5) Subsections 5 (3) and (4) of the Act are repealed.

(6) Subsection 7 (1) of the Act is repealed and the following substituted:

Where permit required

(1) Except under and in accordance with a permit for the extermination issued by the Director, or if the person is exempt under the regulations, no person shall perform a land extermination or a structural extermination.

(a) by means of a pesticide prescribed for the purpose of this section;

(b) by means of a pesticide of a class prescribed for the purpose of this section; or

(c) under the conditions of use prescribed for the purpose of this section.

(7) Subsection 7 (2) of the Act is amended by striking out “unless the person is the holder of a permit issued by the Director for the water extermination or is exempt under the regulations” at the end and substituting “except under and in accordance with a permit issued by the Director for the water extermination or if the person is exempt under the regulations”.

(8) Subsections 11 (1) and (2) of the Act are repealed and the following substituted:

Licences and permits: issue and renewal

(1) The Director shall,

(a) subject to subsection (2), issue or renew a licence referred to in section 5 or 6 to any person who,

(i) applies for the licence or a renewal of the licence in accordance with the regulations,

(ii) meets the requirements of the regulations for the particular class of licence applied for, and

(iii) pays the prescribed fee; and

(b) subject to subsection (3), issue a permit referred to in section 7 to any person who,

(i) applies for the permit in accordance with the regulations,

(ii) meets the requirements of the regulations for the permit applied for, and

(iii) pays the prescribed fee.

Director may refuse to issue or renew licence

(2) The Director may refuse to issue a licence to an applicant or renew a licence of an applicant if the following circumstances apply:

1. One of the following conditions is met:

- i. In the case of an applicant who is an individual, a licence previously issued to the applicant or a corporation in which the applicant was an officer or director was suspended or revoked by the Director under section 13 during the five-year period preceding the date of the application, or is the subject of notice of a proposal to suspend or revoke by the Director under clause 13 (1) (b).
- ii. In the case of an applicant who is a corporation, a licence previously issued to one of the following was suspended or revoked by the Director under section 13 during the five-year period preceding the date of the application, or is the subject of notice of a proposal to suspend or revoke by the Director under clause 13 (1) (b):
 - A. The applicant.
 - B. An officer or director of the applicant.
 - C. A corporation that has a common officer or director with the applicant.

2. One of the following conditions is met:

- i. The Director is of the opinion that if the licence were issued or renewed, the applicant would fail to comply with the requirements under this Act or an order issued under this Act.
- ii. A circumstance set out in subsection (2.2) exists or would exist if the licence were issued or renewed.

Same

(2.1) An individual was an officer or director of a corporation for the purpose of paragraph 1 of subsection (2) if the individual was an officer or director at the time the licence was suspended or revoked, or at the time the circumstances leading to the suspension or revocation arose.

Suspension and revocation of licence

(2.2) Subject to section 13, the Director may suspend or revoke a licence where the Director is of the opinion that,

- (a) the licensee is in contravention of this Act or the regulations;
- (b) the licensee has submitted false or misleading information in an application for a licence;
- (c) the licensee is in breach of any term or condition of the licence;
- (d) the licensee or, where the licensee is a corporation, its officers or directors, is or are not competent to carry on the activity authorized by the licence;
- (e) the past conduct of the licensee or, where the licensee is a corporation, of any of its officers or directors, affords reasonable grounds for belief that the activity authorized by the licence will not be carried on with honesty and integrity;
- (f) the licensee does not have available all premises, facilities and equipment necessary to carry on the activity authorized by the licence in accordance with this Act, the regulations and the licence;
- (g) the licensee is not in a position to observe or carry out the provisions of this Act, the regulations and the licence;
- (h) the licensee has been grossly negligent in carrying on the activity authorized by the licence;
- (i) the licensee has fraudulently misrepresented its services in performing an extermination or in carrying on an extermination business; or
- (j) the licensee is or has been in default of payment of a fine imposed on conviction for an offence under this Act.

(9) Clauses 11 (3) (a) and (b) of the Act are repealed and the following substituted:

- (a) an extermination for which the permit is required has not or will not be performed competently;
- (b) an extermination for which the permit is required has not been or will not be carried out in accordance with the provisions of this Act, the regulations or the permit;
- (b.1) an extermination for which the permit is required has been or will be performed in a grossly negligent manner;
- (b.2) the applicant or permittee has submitted false or misleading information in an application for a permit;
- (b.3) the permittee is in breach of any term or condition of the permit;

(b.4) the applicant or permittee is or has been in default of payment of a fine imposed on conviction for an offence under this Act;

(10) Subsection 13 (6) of the Act is repealed and the following substituted:

Continuation of licence pending renewal

(6) Unless a notice served under subsection (1) indicates that subsection 11 (2) applies in respect of an application, if a licensee has applied for a renewal of the licence and paid the prescribed fee within the time prescribed or, if no time is prescribed, before expiry of the licence, the licence shall be deemed to continue for the shorter of the following periods:

1. From the expiry of the licence until the renewal is granted.
2. From the date the application is made and the fees are paid until the renewal is granted.

(11) Subsection 13 (8) of the Act is amended by striking out “Where the Director refuses” at the beginning and substituting “Where the Director issues a permit subject to a term or condition, refuses”.

(12) Subsections 13 (9) and (10) of the Act are repealed and the following substituted:

Notice

(8.1) A notice served under subsection (8) shall inform the applicant or permittee of the following:

1. The applicant or permittee is entitled to make submissions to the Director under subsection (9) in person, or by a person authorized under the *Law Society Act* to represent the applicant or permittee, and by telephone or otherwise no later than seven days after the notice is served.
2. If the applicant or permittee does not make submissions, the applicant or permittee is entitled to a hearing by the Tribunal upon mailing or delivering notice requiring a hearing to the Director and the Tribunal no later than fifteen days after the notice is served.

Submissions for reconsideration

(9) If the Director serves or causes to be served notice of a decision under subsection (8), the applicant or permittee, as the case may be, may make submissions to the Director no later than seven days after the notice was served.

Reconsideration

(9.1) No later than seven days after receiving submissions under subsection (9), the Director shall reconsider and vary, rescind or confirm the decision and shall serve or cause to be served notice of the variance, rescission or confirmation upon the applicant or permittee together with written reasons.

Same

(9.2) If the Director varies or rescinds the decision, the Director shall take such action as may be necessary to make the variation or rescission effective.

Notice

(10) A notice under subsection (9.1) shall inform the applicant or permittee that the applicant or permittee is entitled to a hearing by the Tribunal upon mailing or delivering notice requiring a hearing to the Director and the Tribunal no later than fifteen days after the notice is served.

(13) Subsection 13 (12) of the Act is amended by striking out “subsection (10)” at the end and substituting “paragraph 2 of subsection (8.1) and subsection (10)”.

(14) Paragraph 4 of subsection 16 (1) of the Act is amended by striking out “employed under Part III of the *Public Service of Ontario Act, 2006*”.

(15) Subsection 17 (1) of the Act is repealed and the following substituted:

Provincial officers

(1) The Minister may designate as provincial officers one or more public servants who work in the Ministry or other persons to exercise such powers and perform such duties and functions under this Act as the Minister specifies.

Limitation of authority

(1.1) In a designation of a provincial officer, the Minister may limit the authority of the officer in the manner that the Minister considers necessary or advisable.

(16) Subsection 24.3 (6) of the Act is repealed and the following substituted:

When relief not to be ordered

(6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited if the person applying for the relief has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed.

(17) Paragraph 1 of subsection 35 (1) of the Act is amended by striking out “the requirements for licences and renewals” at the end and substituting “the requirements for the issue and renewal of licences”.

(18) Paragraph 3 of subsection 35 (1) of the Act is amended by striking out “and prescribing fees therefor” at the end.

(19) Paragraph 5 of subsection 35 (1) of the Act is repealed and the following substituted:

5. providing for the issue of permits and the requirements for permits:

5.1 governing applications for the issue of licences and permits and for renewals of licences, including the timing of applications and the manner of making applications, and prescribing the circumstances in which an application may not be submitted;

5.2 prescribing requirements to be met by applicants for the issue and renewal of licences and the issue of permits, including qualifications, education and training of applicants;

(20) Paragraph 7 of subsection 35 (1) of the Act is amended by striking out “and prescribing fees for such examinations” at the end.

(21) Paragraph 8 of subsection 35 (1) of the Act is amended by striking out “applicants for licences and permits” and substituting “applicants for the issue of licences and permits”.

(22) Paragraph 9 of subsection 35 (1) of the Act is amended by striking out “applicants for licences” and substituting “applicants for the issue and renewal of licences”.

(23) Subsection 35 (1) of the Act is amended by adding the following paragraph:

9.1 providing for such transitional matters as the Lieutenant Governor in Council considers necessary or advisable in relation to electronic applications for licences;

(24) Paragraphs 25, 31, 32 and 33 of subsection 35 (1) of the Act are amended by striking out “designated” wherever it appears.

(25) Paragraph 49 of subsection 35 (1) of the Act is amended by adding “except prescribing or respecting any matter regarding which the Minister may make regulations under section 37” at the end.

(26) Subsections 36 (2) to (4) of the Act are repealed and the following substituted:

Adoption of documents in regulations

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any document, including a code, formula, standard, protocol or procedure, and may require compliance with any document so adopted.

Rolling incorporation by reference

(3) The power to adopt by reference and require compliance with a document in subsection (2) includes the power to adopt a document as it may be amended from time to time.

When effective

(4) The adoption of an amendment to a document that has been adopted by reference comes into effect upon the Ministry publishing notice of the amendment in *The Ontario Gazette* or in the registry under the *Environmental Bill of Rights, 1993*.

(27) Section 37 of the Act is repealed and the following substituted:

Regulations made by Minister

37 (1) The Minister may make regulations in respect of the following matters:

1. Imposing fees for anything done or requested to be done under this Act, prescribing the manner in which and the period within which fees must be paid, and authorizing the refund of fees in prescribed circumstances.

Exemptions

(2) A regulation made under subsection (1) may exempt a person or class of persons from a specified requirement imposed by the regulation, in such circumstances as may be prescribed, or provide that a specified requirement does not apply to the person or class in such circumstances as may be prescribed.

(28) Subsection 46.1 (5) of the Act is repealed and the following substituted:

No restitution to person who committed offence

(5) The court shall not make an order for restitution in favour of any person on account of damage that is the result of the commission of an offence by the person.

(29) Subsection 46.2 (6) of the Act is repealed and the following substituted:

When relief not to be ordered

(6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited if the person applying for the relief has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed.

(30) Clause 47 (1) (b) of the Act is amended by striking out "licence" and substituting "permit".

COMMENCEMENT**Commencement**

3 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 6
MINISTRY OF GOVERNMENT AND CONSUMER SERVICES — CORPORATE AMENDMENTS

BUSINESS CORPORATIONS ACT

1 (1) Clause (c) of the definition of “certified copy” in subsection 1 (1) of the *Business Corporations Act* is repealed and the following substituted:

- (c) in relation to a document in the custody of the Director, a copy of the document certified to be a true copy by the Director and signed by the Director or by any other public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations: (“copie certifiée conforme”)

(2) The definition of “day” in subsection 1 (1) of the Act is repealed and the following substituted:

“day” means a clear day: (“jour”)

(3) The French version of clause (a) of the definition of “electronic signature” in subsection 1 (1) of the Act is repealed and the following substituted:

- a) il est créé ou communiqué par un moyen de communication téléphonique ou électronique:

(4) The definitions of “endorse”, “incorporator”, “Minister” and “telephonic or electronic means” in subsection 1 (1) of the Act are repealed and the following substituted:

“endorse” includes,

- (a) imprinting a stamp on the face of articles or other documents sent to the Director, and
 (b) electronically producing an equivalent to a stamp in respect of articles or other documents sent to the Director: (“produire”)

“incorporator” means a person who signs or otherwise authorizes articles of incorporation: (“fondateur”)

“Minister” means the member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*: (“ministre”)

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, an automated touch-tone telephone system, computers or computer networks: (“moyen de communication téléphonique ou électronique”)

(5) Section 1 of the Act is amended by adding the following subsection:

Interpretation re period of days

(8) In this Act, a period of days is deemed to commence on the day following the event that began the period and is deemed to terminate at midnight of the last day of the period, except that if the last day of the period falls on a holiday, the period terminates at midnight of the next day that is not a holiday.

2 The French version of paragraph 3 of subsection 3.2 (2) of the Act is repealed and the following substituted:

- 3 La dénomination sociale de la société doit comprendre l'expression «société professionnelle» ou «Professional Corporation» et être conforme aux règles concernant les dénominations sociales des sociétés professionnelles qui sont énoncées dans les règlements et aux règles concernant les dénominations sociales qui sont énoncées dans les règlements pris ou les règlements administratifs adoptés en vertu de la loi qui régit la profession.

3 (1) Subsections 5 (1) and (2) of the Act are repealed and the following substituted:

Contents of articles

(1) Articles of incorporation must be in the form approved by the Director and must set out the information required by this Act, the regulations or the Director.

First director's consent

(2) The corporation shall keep at its registered office the consent to act as a first director, in the approved form,

- (a) of each individual who is named in the articles as a first director and who is not an incorporator; and
 (b) of each individual who is named in the articles as a first director and who is an incorporator, if the articles are sent to the Director in an electronic format and the consent is required by the regulations.

(2) Section 5 of the Act is amended by adding the following subsection:

Director may require copy of consent

(2.2) The Director may, at any time by notice, require that a copy of a consent mentioned in subsection (2) be provided to the Director within the time period set out in the notice.

4 Section 6 of the Act is repealed and the following substituted:**Certificate of incorporation**

6 An incorporator shall send to the Director articles of incorporation and any other required documents and information and, upon receipt of the articles, documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of incorporation.

5 (1) The French version of subsection 8 (1) of the Act is repealed and the following substituted:**Attribution d'un numéro**

(1) Le directeur attribue à la société un numéro, qui figure dans le certificat de constitution ainsi que dans tout autre certificat concernant cette société produit ou délivré par le directeur comme étant le numéro de la société.

(2) Subsections 8 (3) and (4) of the Act are repealed and the following substituted:**Changing corporation number or number name**

(3) If, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number or number name that is the same as the corporation number or number name of any other corporation previously assigned, the Director may, without holding a hearing, change the corporation number or number name assigned to the corporation and any certificate subsequently endorsed for the corporation under this Act must bear its new corporation number or number name.

Reissue of certificate of incorporation or amalgamation

(3.1) If a new corporation number or number name is assigned to a corporation under subsection (3), the Director may reissue the certificate of incorporation or certificate of amalgamation, whichever was most recently issued to the corporation, and the reissued certificate must bear the new corporation number or number name.

Substitution of endorsed certificate

(4) If, for any reason, the Director has endorsed a certificate in respect of articles that sets out the corporation number or number name incorrectly, the Director may, without holding a hearing, substitute a corrected certificate that bears the date of the certificate it replaces.

Assignment of corporation numbers to bodies corporate

(4.1) The Director may assign a corporation number to a body corporate that has not already been assigned a corporation number if the Director is of the opinion that it is appropriate to do so.

6 Subsections 25 (4) and (5) of the Act are repealed and the following substituted:**Articles designating special shares**

(4) If, in respect of a series of shares, the directors exercise the authority conferred on them, before the issue of shares of the series, the directors shall send to the Director articles of amendment designating the series and any other required documents and information.

Certificate re special shares

(5) On receipt of articles of amendment designating a series of shares under subsection (4) and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of amendment.

7 The French version of subsection 94 (2) of the Act is amended by striking out "par voie téléphonique ou électronique" and substituting "par un moyen de communication téléphonique ou électronique".

8 (1) Subsections 99 (2) and (3) of the Act are repealed and the following substituted:**Circulating proposal**

(2) Where a corporation receives notice of a proposal,

- (a) if the corporation provides a management information circular, it shall set out the proposal in the management information circular or attach the proposal to that circular; or
- (b) if the corporation does not provide a management information circular, it shall set out the proposal in the notice of meeting for the shareholders' meeting at which the matter is proposed to be raised or shall attach the proposal to such notice of meeting.

Statement in support of proposal

(3) At the request of a person who submits notice of a proposal, the corporation shall include in the management information circular referred to in clause (2) (a) or the notice of meeting referred to in clause (2) (b), or shall attach to it, the person's statement in support of the proposal and the person's name and address.

(2) Clause 99 (5) (a) of the Act is repealed and the following substituted:

- (a) in the case of an offering corporation, notice of the proposal is submitted to the corporation less than 60 days before
 - (i) the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or
 - (ii) the date of a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;
- (a.1) in the case of a corporation other than an offering corporation, notice of the proposal is submitted to the corporation less than the minimum number of days determined under subsection (5.1) before,
 - (i) the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or
 - (ii) the date of a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;
- (3) Clauses 99 (5) (c) and (d) of the Act are repealed and the following substituted:**
 - (c) within two years before the receipt by the corporation of a person's notice of proposal, the person failed to present, in person or by proxy, at a meeting of the corporation's shareholders, a proposal which had been submitted by the person and had been included in a management information circular or a notice of meeting relating to that shareholders' meeting; or
 - (d) the following has occurred:
 - (i) substantially the same proposal was submitted to shareholders of the corporation in a management information circular, dissident's information circular, or notice of a meeting relating to a previous meeting of shareholders,
 - (ii) the previous meeting referred to in subclause (i) was held within five years, or such other period as may be prescribed, before the receipt by the corporation of the person's current notice of proposal, and
 - (iii) at that previous meeting, the proposal did not receive the minimum amount of support required under subsection (5.4).

(4) Section 99 of the Act is amended by adding the following subsections:

Minimum notice for proposal, non-offering corporation

(5.1) For the purpose of clause (5) (a.1),

- (a) the minimum number of days is the minimum number of days specified in the articles, the by-laws or a unanimous shareholder agreement, if the number is,
 - (i) not greater than 60, and
 - (ii) not less than 21 or such other number as may be prescribed;
- (b) if the articles, the by-laws or a unanimous shareholder agreement specify a minimum number of days that is less than 21 or less than such other number as may be prescribed, the minimum number of days is 21 or the prescribed number, as the case may be; or
- (c) if the articles, the by-laws or a unanimous shareholder agreement specify a minimum number of days that is greater than 60 or don't specify a minimum number of days, the minimum number of days is 60.

Non-offering corporation receives proposal after sending notice of meeting

(5.2) If a corporation other than an offering corporation receives notice of a proposal to be raised at a shareholders' meeting and is required to comply with subsections (2) and (3), but the notice of the proposal is received after the corporation has already sent notice of the shareholders' meeting, the corporation shall send the proposal and, at the request of the person who submitted notice of the proposal, shall also send the person's statement in support of the proposal and the person's name and address, to the persons entitled to notice of the shareholders' meeting under section 96, not less than 10 days before the meeting.

Deeming

(5.3) If a corporation sends the document or documents required by subsection (5.2) to the persons and within the time required by that subsection, the document or documents sent by the corporation shall be deemed for all purposes to have been included in the management information circular referred to in clause (2) (a) or the notice of shareholder's meeting referred to in clause (2) (b), as the case may be, as required by subsections (2) and (3).

Minimum support

(5.4) For the purpose of subclause (5) (d) (iii), the minimum amount of support that the proposal must have received at the previous meeting is determined as follows:

- (i) If the previous meeting was the first time, within the period referred to in subclause (5) (d) (iii), that a substantially similar proposal was made at a meeting of shareholders, the minimum amount of support the proposal must have

received at that previous meeting is 3 per cent. or such other percentage as may be prescribed, of the total number of shares voted at that meeting.

2. If the previous meeting was the second time, within the period referred to in subclause (5) (d) (ii), that a substantially similar proposal was made at a meeting of shareholders, the minimum amount of support the proposal must have received at that previous meeting is 6 per cent. or such other percentage as may be prescribed, of the total number of shares voted at that meeting.
3. If the previous meeting was at least the third time, within the period referred to in subclause (5) (d) (ii), that a substantially similar proposal was made at a meeting of shareholders, the minimum amount of support the proposal must have received at that previous meeting is 10 per cent. or such other percentage as may be prescribed, of the total number of shares voted at that meeting.

(5) Subsection 99 (7) of the Act is repealed and the following substituted:

Notice of refusal

(7) Within 10 days after receiving notice of a proposal from a person under clause (1) (a), a corporation that refuses to circulate the proposal as required by this section shall send the person notice of the corporation's intention not to circulate the proposal and a statement of the reasons for the refusal.

9 The French version of the definition of "form of proxy" in section 109 of the Act is amended by striking out "par voie téléphonique ou électronique" and substituting "par un moyen de communication téléphonique ou électronique".

10 The French version of clause 110 (4) (b) of the Act is amended by striking out "par voie téléphonique ou électronique" and substituting "par un moyen de communication téléphonique ou électronique".

11 Section 119 of the Act is amended by adding the following subsection:

Director may require copy of consent

(12) The Director may, at any time by notice, require that a copy of a consent mentioned in subsection (9) or (10) be provided to the Director within the time period set out in the notice.

12 Subsection 149 (8) of the Act is amended by striking out "or the Director".

13 Subsection 171 (1) of the Act is repealed and the following substituted:

Articles of amendment

(1) Articles of amendment and any other required documents and information shall be sent to the Director.

14 Section 172 of the Act is repealed and the following substituted:

Certificate of amendment

172 Upon receipt of articles of amendment and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of amendment.

15 Subsections 173 (1), (2) and (3) of the Act are repealed and the following substituted:

Restated articles of incorporation

(1) The directors may, at any time, restate the articles of incorporation as amended and shall do so when directed by the Director.

Same

(2) Restated articles of incorporation and any other required documents and information shall be sent to the Director.

Restated certificate of incorporation

(3) Upon receipt of restated articles of incorporation and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the restated certificate of incorporation.

16 The French version of subsection 176 (5) of the Act is amended by striking out "avant l'apposition du certificat de fusion" and substituting "avant la production du certificat de fusion".

17 Subsections 178 (1) and (4) of the Act are repealed and the following substituted:

Articles of amalgamation

(1) Subject to subsection 176 (5), after an amalgamation has been adopted under section 176 or approved under section 177, articles of amalgamation and any other required documents and information shall be sent to the Director.

Certificate of amalgamation

(4) Upon receipt of articles of amalgamation and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of amalgamation.

18 (1) Subsections 180 (1) and (2) of the Act are repealed and the following substituted:

Articles of continuance

(1) A body corporate may apply to the Director for a certificate of continuance if,

- (a) it is incorporated or continued under the laws of any jurisdiction other than Ontario and the laws of the jurisdiction under which it was incorporated or continued authorize it to make the application; or
- (b) it is a body corporate that is a social company within the meaning of the *Corporations Act* and,
 - (i) the shareholders, by special resolution, authorize the directors of the body corporate to apply to the Director for a certificate of continuance under this Act, or
 - (ii) the body corporate has obtained a court order described in subsection 2.1 (5) of the *Corporations Act*.

Same

(2) Articles of continuance and any other required documents and information shall be sent to the Director.

(2) Clause 180 (1) (b) of the Act, as enacted by subsection (1), is repealed and the following substituted:

- (b) it is a body corporate that is a social company within the meaning of the *Corporations Act* and the shareholders, by special resolution, authorize the directors of the body corporate to apply to the Director for a certificate of continuance under this Act.

(3) Subsection 180 (3) of the Act is amended by striking out “the laws of Ontario” wherever that expression appears and substituting in each case “this Act”.

(4) Subsections 180 (4) and (6) of the Act are repealed and the following substituted:

Endorsement of certificate of continuance

(4) Upon receipt of articles of continuance and any other required documents and information, the Director may, on the terms and subject to the limitations and conditions that the Director considers proper, endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of continuance.

Notification of continuance

(6) In the case of a body corporate described in clause (1) (a), the Director may notify the appropriate official or public body, in the jurisdiction in which continuance under this Act was authorized, that the certificate of continuance has been issued.

19 (1) Clause 181 (3) (b) of the Act is repealed and the following substituted:

- (b) by the Director when, following receipt from the corporation of an application and any other required documents and information, the Director endorses the application with an authorization.

(2) The French version of subsection 181 (4) of the Act is repealed and the following substituted:

Autorisation du directeur

(4) S'il est convenu que la demande n'est pas interdite par le paragraphe (9), le directeur peut produire l'autorisation.

(3) The French version of subsection 181 (6) of the Act is amended by striking out “la date de l'apposition de l'autorisation” and substituting “la date de la production de l'autorisation”.

(4) Section 181 of the Act is amended by adding the following subsection:

Equivalent of filing

(7.1) If the appropriate official or public body of the other jurisdiction notifies the Director that it has issued an instrument of continuance to the corporation, the Director may, if the Director is of the opinion that it is appropriate to do so and is satisfied that the corporation has satisfied the requirements of this section, notify the corporation that it is deemed to have complied with subsection (7).

20 (1) Clause 181.1 (3) (b) of the Act is repealed and the following substituted:

- (b) by the Director when, following receipt from the corporation of an application and any other required documents and information, the Director endorses the application with an authorization.

(2) The French version of subsection 181.1 (5) of the Act is amended by striking out “la date de l'apposition de l'autorisation” and substituting “la date de la production de l'autorisation”.

(3) Subsection 181.1 (6) of the Act is repealed.

21 The Act is amended by adding the following section:

Continuance as corporation without share capital

181.2 (1) A corporation may, if it is authorized by the shareholders in accordance with this section, apply under the *Not-for-Profit Corporations Act, 2010* to be continued as a corporation without share capital.

Notice to shareholders

(2) The notice of the meeting of shareholders to authorize an application under subsection (1) must include or be accompanied by a statement that a dissenting shareholder is entitled to be paid the fair value of the shares in accordance with section 185, but failure to make that statement does not invalidate an authorization under subsection (3).

Authorization

(3) An application for continuance is authorized by the shareholders when the shareholders voting on it have approved of the continuance by a special resolution in accordance with section 115 of the *Not-for-Profit Corporations Act, 2010*.

Abandoning application

(4) The directors of a corporation may, if authorized by the shareholders, abandon an application without further approval of the shareholders.

Act ceases to apply

(5) This Act ceases to apply to the corporation on the date upon which the corporation is continued under the *Not-for-Profit Corporations Act, 2010*.

22 Section 182 of the Act is amended by adding the following subsection:

Same

(5.1) A corporation that applies to the court under subsection (5) shall give the Director notice of the application, and the Director is entitled to appear before the court and be heard in person or by counsel.

23 Section 183 of the Act is repealed and the following substituted:

Articles of arrangement sent to Director

183 (1) After an order referred to in clause 182 (5) (f) has been made, articles of arrangement and any other required documents and information shall be sent to the Director.

Certificate of arrangement

(2) Upon receipt of articles of arrangement and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of arrangement.

Effective date of articles of arrangement

(3) Articles of arrangement are effective on the date shown in the certificate of arrangement.

24 Subsection 185 (1) of the Act is amended by striking out “or” at the end of clause (d) and by adding the following clauses:

(d.1) be continued under the *Co-operative Corporations Act* under section 181.1;

(d.2) be continued under the *Not-for-Profit Corporations Act, 2010* under section 181.2; or

25 Subsections 186 (4) and (5) of the Act are repealed and the following substituted:

Articles of reorganization

(4) After a reorganization has been made, articles of reorganization and any other required documents and information shall be sent to the Director.

Certificate

(5) Upon receipt of articles of reorganization and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of amendment, and the articles are amended accordingly.

26 Subsection 193 (4) of the Act is repealed and the following substituted:

Notice of resolution

(4) A corporation shall file notice, in the approved form, of a resolution requiring the voluntary winding up of the corporation with the Director within 10 days after the resolution has been passed.

27 Subsections 205 (2) and (6) of the Act are repealed and the following substituted:

Notice that meeting was held

(2) The liquidator shall, within 10 days after the meeting is held, file a notice in the approved form with the Director stating that the meeting was held and the date of the meeting.

Copy of extension order to be filed

(6) The person on whose application an order was made under subsection (4) or (5) shall file with the Director, within 10 days after the order was made, a certified copy of the order, a notarial copy of the certified copy or any other type of copy of the order permitted by the Director.

28 Subsection 210 (4) of the Act is repealed and the following substituted:

Notice of appointment

(4) A liquidator appointed by the court under this section shall forthwith give to the Director notice in the approved form of the liquidator's appointment.

29 Subsection 218 (2) of the Act is repealed and the following substituted:

Copy of dissolution order to be filed

(2) The person on whose application the order was made shall file with the Director, within 10 days after the order was made, a certified copy of the order, a notarial copy of the certified copy or any other type of copy of the order permitted by the Director.

30 (1) Subsection 238 (1) of the Act is amended by striking out "shall follow the prescribed form and shall set out" in the portion before clause (a) and substituting "must set out".

(2) Subsection 238 (2) of the Act is amended by striking out "shall follow the prescribed form and shall set out" in the portion before clause (a) and substituting "must set out".

31 (1) Subsection 239 (1) of the Act is repealed and the following substituted:

Certificate of dissolution

(1) Upon receipt of the articles of dissolution and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of dissolution.

(2) Subsection 239 (2) of the Act is amended by striking out "Despite clause 273 (1) (a)" at the beginning and substituting "Despite subsection 273 (1)".

32 The French version of subsection 240 (1) of the Act is amended by striking out "ou de tout autre certificat délivré ou appose" in the portion before clause (a) and substituting "ou de tout autre certificat délivré ou produit".

33 (1) Subsection 241 (1) of the Act is amended by striking out the portion before paragraph 0.1 and substituting the following:

Notice of dissolution by order

(1) If the Director is notified by the Minister of Finance that a corporation is in default of complying with any of the following Acts, the Director may give notice to the corporation in accordance with section 263, or by publication in accordance with the regulations, that an order dissolving the corporation will be issued unless the corporation remedies its default within 90 days after the notice is given:

(2) Subsections 241 (2) and (3) of the Act are repealed and the following substituted:

Same

(2) If the Director is notified by the Commission that a corporation has not complied with sections 77 and 78 of the *Securities Act*, the Director may give notice to the corporation in accordance with section 263, or by publication in accordance with the regulations, that an order dissolving the corporation will be issued unless the corporation complies with sections 77 and 78 of the *Securities Act* within 90 days after the giving of the notice.

Same, non filing

(3) If a corporation fails to comply with a filing requirement under the *Corporations Information Act* or fails to pay a fee required under this Act, the Director may give notice to the corporation in accordance with section 263, or by publication in accordance with the regulations, that an order dissolving the corporation will be issued unless the corporation, within 90 days after the notice is given, complies with the requirement or pays the fee.

(3) Section 241 of the Act is amended by adding the following subsections:

Same

(5.1) The Director may make an order revoking a dissolution order made under subsection (4) if:

- (a) there was no authority to make the dissolution order;
- (b) there was an error in respect of the dissolution order; or
- (c) the prescribed circumstances exist.

Effect of order under subs. (5.1)

(7.1) If an order is made under subsection (5.1),

- (a) the order is effective as of the date of the dissolution order; and
- (b) the corporation is deemed for all purposes never to have been dissolved, subject to the rights, if any, acquired by any person during the period of dissolution.

Definition

(9.1) In subsection (9),

“interested person” includes a director, officer and shareholder of the corporation.

(4) Subsection 241 (13) of the Act is amended by striking out “which shall be in the prescribed form” at the end.

(5) Subsection 241 (14) of the Act is repealed and the following substituted:

Certificate of revival

(14) Subject to subsection (9), upon receipt of articles of revival and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of revival.

34 (1) Subsection 251 (1) of the Act is amended by striking out “Where the Director refuses to endorse a certificate on articles or any other document” at the beginning and substituting “Where the Director refuses to endorse a certificate in respect of articles or any other document”.

(2) Subsection 251 (2) of the Act is amended by striking out “the Director has not endorsed a certificate on such articles or other document” and substituting “the Director has not endorsed a certificate in respect of the articles or other document”.

35 (1) Clause 252 (1) (a) of the Act is repealed and the following substituted:

- (a) to refuse to endorse a certificate in respect of articles or any other document;

(2) The French version of clause 252 (1) (e) of the Act is repealed and the following substituted:

- e) de refuser de produire une autorisation en vertu de l'article 181;

36 Subsections 263 (2) and (3) of the Act are repealed and the following substituted:

Exception

(2) A notice or other document that is required or permitted by this Act or the regulations to be sent by the Director may be sent by ordinary mail or by any other method, including registered mail, certified mail or prepaid courier, to an address referred to in this section or section 262 if there is a record that the notice or document has been sent.

Same

(3) A notice or other document referred to in subsection (2) may be sent by telephonic or electronic means if there is a record that the notice or other document has been sent and, for greater certainty, the sending of a notice or other document by telephonic or electronic means does not require the consent of the intended recipient.

37 Section 265 of the Act is repealed and the following substituted:

Delegation of Director's duties and powers

265 The Director may delegate in writing any or all of the Director's duties and powers under this Act to any person, subject to any restrictions set out in the delegation.

Agreements with authorized persons

265.1 (1) In this section,

“business filing services” includes any of the duties and powers of the Director and related services.

Agreements to provide business filing services

(2) The Minister or a person designated by the Minister may, on behalf of the Crown in right of Ontario, enter into one or more agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Director or other government official.

Not Crown agent

(3) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services is not an agent of the Crown for any purpose despite the *Crown Agency Act*, unless a regulation provides otherwise.

Use, etc., of records and information

(4) An agreement entered into under subsection (2) may also include provisions respecting the use, disclosure, sale or licensing of records and information required under this Act.

Discretion to delegate unaffected by agreement

(5) An agreement entered into under subsection (2) does not affect the Director's power to delegate any duties or powers under section 265.

No power to waive or refund fees for services

(6) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services may not waive or refund all or part of any fee for such a service that is payable to the Province of Ontario, but the person or entity may pay all or part of the fee on behalf of the person or entity to whom the service was provided.

Deemed date of receipt by Director

(7) Articles, applications and other documents and information sent to a person or entity that has entered into an agreement under subsection (2), that authorizes the person or entity to receive articles, applications and other documents and information on behalf of the Director, are deemed to be received by the Director on the date that they are received by the authorized person or entity.

Agreements for use, etc., of records and information

(8) The Minister or the Director, or a person designated by the Minister or the Director, may enter into an agreement with any person or entity respecting the use, disclosure, sale or licensing of records and information required under this Act.

Property of Crown

265.2 The records and information filed with and maintained by the Director under this Act are the property of the Crown.

Director's certificate

265.3 (1) If this Act requires or authorizes the Director to endorse a certificate or issue a certificate, including a certificate as to any fact, the certificate must be signed by the Director or by a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations.

Evidence

(2) A certificate referred to in subsection (1), or a certified copy of it, when introduced as evidence in any civil, criminal, administrative, investigative or other action or proceeding, is, in the absence of evidence to the contrary, proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the certificate or certified copy.

Reproduction of signature

(3) For the purposes of this section, any signature of the Director or of a person designated by the regulations may be printed or otherwise mechanically or electronically reproduced.

38 Section 267 of the Act is repealed and the following substituted:**Accepting copy of notice or other document**

267 (1) If a notice or other document is required to be sent to the Director under this Act, the Director may accept a copy of it, including an electronic copy.

Exception

(2) Unless otherwise provided in the regulations, subsection (1) does not apply to articles or applications filed in paper format.

39 (1) Subsection 270 (1) of the Act is repealed and the following substituted:**Examination, etc., of documents**

(1) A person who has paid the required fee is entitled during usual business hours to examine and to make copies of or extracts from any document required by this Act or the regulations to be sent to the Commission.

Search

(1.1) A person who has paid the required fee is entitled, using any search method approved by the Director, to search and obtain copies of any document required by this Act, the regulations or the Director to be sent to the Director.

(2) Subsection 270 (3) of the Act is repealed and the following substituted:**Privileged documents**

(3) Subsections (1), (1.1) and (2) do not apply in respect of,

- (a) a report described in subsection 162 (2) that the court has ordered not to be made available to the public; or
- (b) documents and financial statements that were required, by this Act or the regulations, to be filed with the Director with an application for exemption from the requirements of Part XII of this Act.

40 (1) Sections 271.1 and 271.2 of the Act are repealed and the following substituted:**Minister's regulations and orders****Regulations**

271.1 (1) The Minister may make regulations,

- (a) respecting and governing the content, form, format and filing of articles, applications and other documents and information filed with or issued by the Director and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of articles, applications and other documents and information filed with the Director, the payment of fees and the determination of the date of receipt;
- (c) designating articles, applications and other documents and information to be filed with the Director,
 - (i) in paper or electronic format,
 - (ii) in electronic format alone, or
 - (iii) in paper format alone;
- (d) respecting names of corporations, or classes of corporations, including prohibiting the use of any words or expressions in a corporate name, prescribing requirements for the purposes of clause 9 (1) (c), prescribing conditions for the purposes of subsection 9 (2), prescribing the documents relating to a corporation's name that must be filed with the Director under subsection 9 (3), respecting the name of a corporation under subsection 10 (2), prescribing the punctuation marks and other marks that may form part of a corporation's name under subsection 10 (3) and respecting the content of a special language provision under subsection 10 (4);
- (e) subject to any terms and conditions specified in the regulation, prescribing and governing documents and information that are required to support articles, applications and other forms approved under section 272.2 and specifying, for each of the formats designated under clause (c),
 - (i) the documents and information that must be filed with the Director, together with articles, applications and other forms approved under section 272.2, and
 - (ii) the documents and information that must be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, and subject to any terms and conditions imposed by the Director, that must be filed with the Director or given to any other person specified in the notice;
- (f) permitting the Director, subject to any terms and conditions imposed by the Director, for each of the formats designated under clause (c),
 - (i) to require that a document or information prescribed under subclause (e) (i) be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Director or given to any other person specified in the notice,
 - (ii) to require that a document or information prescribed under subclause (e) (ii) be filed with the Director, together with articles, applications and other forms approved under section 272.2, and
 - (iii) to require that a document required by this Act to be filed with the Director be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Director or given to any other person specified in the notice;
- (g) governing the terms and conditions that the Director may impose pursuant to a regulation made under subclause (e) (ii) or clause (f);
- (h) respecting and governing the endorsement of articles and applications with a certificate or authorization and the issuance of certificates and authorizations by the Director, including rules respecting the endorsement and issuance by electronic means;

- (i) governing the assignment of corporation numbers and number names under section 8;
- (j) governing the retention and destruction of articles, applications and other documents and information filed with the Director, including the form and format in which they must be retained;
- (k) prescribing exceptions under section 177;
- (l) prescribing circumstances for the purpose of clause 241 (5.1) (c);
- (m) prescribing documents for the purposes of subsection 273.4 (2);
- (n) governing the publication of notices to corporations for the purposes of subsections 241 (1), (2) and (3);
- (o) prescribing duties and powers of the Director in addition to those set out in this Act;
- (p) providing that a person or entity that enters into an agreement under subsection 265.1 (2) is an agent of the Crown and specifying the services and purposes for which the person or entity is considered to be an agent of the Crown;
- (q) designating public servants employed under Part III of the *Public Service of Ontario Act, 2006* or classes of them for the purposes of endorsing and issuing certificates, including certificates as to any fact, and certifying true copies of documents required or authorized under this Act;
- (r) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (s) prescribing any matter that the Minister considers necessary or advisable for the purposes of this Act;
- (t) providing for transitional matters that the Minister considers necessary or advisable in connection with the implementation of amendments to this Act enacted by Schedule 6 to the *Cutting Unnecessary Red Tape Act, 2017*.

Rolling incorporation by reference

- (2) A regulation made under subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

Fees

- (3) The Minister may, by order, require the payment of fees for search reports, copies of documents or information, filing of documents or other services under this Act, approve the amount of those fees and provide for the waiver or refund of all or any part of any of those fees.

Non-application of *Legislation Act, 2006*

- (4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made by the Minister under subsection (3).

Requirements established by Director

271.2 (1) The Director may establish requirements.

- (a) respecting and governing the content, form, format and filing of articles, applications and other documents and information filed with or issued by the Director and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of articles, applications and other documents and information filed with the Director, the payment of fees and the determination of the date of receipt;
- (c) specifying that articles, applications and other documents and information may be filed with the Director and fees may be paid only by a person authorized by the Director or who belongs to a class of persons authorized by the Director;
- (d) governing the authorization of persons described in clause (c), including,
 - (i) establishing conditions and requirements to be an authorized person,
 - (ii) imposing terms and conditions on an authorization, including terms and conditions governing the filing of articles, applications and other documents and information and the payment of fees, and
 - (iii) requiring any person who applies for an authorization to enter into an agreement with the Director, or a person designated by the Director, governing the filing of articles, applications and other documents and information,
- (e) specifying whether and which articles, applications, other forms approved under section 272.2 and supporting documents must be signed, specifying requirements respecting their signing, and governing the form and format of signatures, including establishing rules respecting electronic signatures;
- (f) specifying and governing methods of executing articles, applications, other forms approved under section 272.2, supporting documents and statements, other than by signing them, and establishing rules respecting those methods;
- (g) if the Act specifies requirements respecting the signing of articles, applications and other documents filed with the Director, specifying and governing alternative requirements for their signing or providing that signing is not required.

- (h) specifying requirements for corporations filing articles, applications and other forms approved under section 272.2 electronically to keep a properly executed version of them at the registered office in paper or electronic format and, if required by notice from the Director, to provide a copy of the executed version to the Director within the time period set out in the notice;
- (i) establishing the time and circumstances when articles, applications and other documents and information are considered to be sent to or received by the Director, and the place where they are considered to have been sent or received;
- (j) establishing technology standards and requirements for filing articles, applications and other documents and information in electronic format with the Director and for paying fees in electronic format;
- (k) specifying a type of copy of a court order or other document issued by the court that may be filed with the Director;
- (l) respecting and governing the endorsement of articles and applications with a certificate or authorization and the issuance of certificates and authorizations by the Director, including rules respecting the endorsement and issuance by electronic means;
- (m) governing the assignment of corporation numbers and number names under section 8;
- (n) governing searches and search methods of records for the purpose of subsection 270 (1.1).

Classes

- (2) For the purposes of clause (1) (c), a class may be defined.
 - (a) in terms of any attribute or combination of attributes; or
 - (b) as consisting of, including or excluding a specified member.

Non-application of *Legislation Act, 2006*

- (3) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

Conflict

- (4) If there is a conflict between a requirement established under this section and a regulation made under this Act, the regulation prevails to the extent of the conflict.

(2) Clause 271.1 (1) (t) of the Act, as enacted by subsection (1), is repealed.

41 (1) Paragraph 1 of section 272 of the Act is repealed and the following substituted:

- 1. respecting the designation, rights, privileges, restrictions or conditions attaching to shares or classes of shares of corporations, or any other matter pertaining to articles or the filing of them;

(2) Paragraphs 8, 9, 10, 11, 12, 13 and 29.4 of section 272 of the Act are repealed.

(3) Section 272 of the Act is amended by adding the following paragraphs:

15.4.1 prescribing a different period for the purpose of subclause 99 (5) (d) (ii);

15.4.2 prescribing a different number of days for the purpose of clauses 99 (5.1) (a) and (b);

15.4.3 prescribing a different percentage for the purpose of paragraph 1 of subsection 99 (5.4), a different percentage for the purpose of paragraph 2 of subsection 99 (5.4) and a different percentage for the purpose of paragraph 3 of subsection 99 (5.4);

42 The Act is amended by adding the following section:

Forms

272.2 (1) The Director may require that forms approved by the Director be used for any purpose under this Act.

Non-application of *Legislation Act, 2006*

- (2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

43 Sections 273, 273.1 and 273.2 of the Act are repealed and the following substituted:

Endorsement of articles

273 (1) If this Act requires that articles be sent to the Director, unless otherwise provided in this Act, the regulations or the Director's requirements,

- (a) if the articles are sent to the Director in paper format,

- (i) one set of the original articles must be sent in the approved form, and
- (ii) the set of original articles referred to in subclause (i) must be signed by a director or an officer of the corporation or, in the case of articles of incorporation, by all its incorporators;
- (b) if the articles are sent to the Director in an electronic format,
 - (i) the articles must be sent in a format that is prescribed by the Minister or required by the Director, and
 - (ii) the articles referred to in subclause (i) must meet any signature or authorization requirements established by the Director under subsection 271.2 (1).

Director's duties

(2) Upon receiving articles completed in accordance with clause (1) (a) or (b), any other required documents and information and the required fee, the Director shall, unless otherwise provided in this Act, the regulations or the Director's requirements and subject to his or her discretion provided in subsections 180 (4) and 241 (9) and to subsection (3) of this section,

- (a) endorse the articles with a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file the articles endorsed with the certificate in the records maintained under section 276; and
- (c) send or otherwise make available to the corporation or its representative a copy of the articles endorsed with the certificate.

Date of certificate

(3) A certificate referred to in subsection (2), other than a certificate of arrangement, must be dated as of,

- (a) the day the Director receives the articles completed in accordance with clause (1) (a) or (b), together with all other required documents executed in accordance with this Act, the regulations and the Director's requirements, all other required information and the required fee; or
- (b) any later date that is acceptable to the Director and specified by the person who submitted the articles or by the court.

Effective date of articles

(4) Articles endorsed with a certificate under this section are effective on the date shown in the certificate even if any action required to be taken by the Director under this Act with respect to the endorsement and filing or recording of the certificate by the Director is taken at a later date.

Methods of endorsing and issuing

273.1 The Director may endorse articles and applications with a certificate or authorization and issue certificates, authorizations, certified copies and other documents by any method, and may use or issue validation codes or other systems or methods of validation in respect of the endorsements and issuance.

Refusal to endorse if corporation in default

273.2 Despite any provision of this Act requiring the Director to endorse a certificate or an authorization, the Director may refuse to do so if a corporation is in default of a filing requirement under the *Corporations Information Act* or of a registration requirement under the *Business Names Act* or has any unpaid fees or penalties outstanding under this Act, the *Corporations Information Act* or the *Business Names Act*.

Filing by fax

273.3 Despite any regulation made under section 271.1, articles, applications and other documents may be filed by fax only with the Director's consent.

Electronic version prevails

273.4 (1) If articles or an application are filed with the Director in an electronic format and there is a conflict between the electronic version and any other version of the articles or application, the electronic version of the articles endorsed with a certificate under this Act and recorded in an electronic system maintained under section 276 or the electronic version of the application endorsed with an authorization under section 181, 181.1 or 181.2 and recorded in an electronic system maintained under section 276, or a printed copy of the applicable electronic version, prevails over any other version of the articles or application that may exist, regardless of whether the other version of the articles or application has been executed in accordance with this Act, the regulations and the Director's requirements.

Same, prescribed documents

(2) If a prescribed document is filed in an electronic format and there is a conflict between the electronic version and any other version of the document, the electronic version of the document recorded in an electronic system maintained under section 276, or a printed copy of the electronic version, prevails over any other version of the document that may exist, regardless of whether the other version of the document has been executed in accordance with this Act, the regulations and the Director's requirements.

Inability to receive filings in electronic system

273.5 (1) Despite any regulation made under clause 271.1 (1) (c), if the Director is of the opinion that it is not possible, for any reason, to receive articles, applications and other documents and information in an electronic format in an electronic system maintained under section 276, the Director may require that they be filed in paper format alone in accordance with the Director's requirements, if any, or in another electronic format approved by the Director.

Same, retaining filings and requests until system is operational

(2) If the Director is of the opinion that it is not possible, for any reason, to endorse or issue articles, applications or other documents using an electronic system maintained under section 276, the Director may retain articles, applications and other documents that have been filed until it is possible for the Director to endorse or issue them in accordance with this Act, the regulations and the Director's requirements, if any.

Same, searches

(3) If the Director is of the opinion that it is not possible, for any reason, for searches to be made of an electronic system maintained under section 276, the Director may retain search requests that have been filed until it is possible for searches to be made.

44 Section 275 of the Act is repealed and the following substituted:**Errors in certificates, etc.**

275 (1) If a certificate or other document issued or endorsed under this Act, or a predecessor of this Act, contains an error or if a certificate or other document has been issued or endorsed in respect of articles or any other documents that contain an error,

- (a) the corporation or its directors or shareholders may apply to the Director for a corrected certificate or other document and, if requested by the Director, shall surrender the certificate or other document and related articles or other documents to the Director within the time period specified by the Director; or
- (b) the Director may notify the corporation that a corrected certificate may be required and the corporation shall, if requested by the Director, surrender the certificate and related articles or documents to the Director within the time period specified by the Director.

Corrected certificate, etc.

(2) After giving the corporation an opportunity to be heard in respect of an error under subsection (1), if the Director is of the opinion that it is appropriate to do so and is satisfied that the corporation has taken any steps required by the Director, the Director shall endorse a corrected certificate or other document.

Date on certificate, etc.

(3) A corrected certificate or other document endorsed under subsection (2) may bear the date of the certificate or other document it replaces.

Same

(4) If a correction is made with respect to the date of the certificate, the corrected certificate endorsed under subsection (2) shall bear the corrected date.

Appeal

(5) A decision of the Director under subsection (2) may be appealed to the Divisional Court which may order the Director to change his or her decision and may make such further order that it thinks fit.

45 Section 276 of the Act is amended by adding the following subsection:**Documents may be publicly available**

(4) The Director may publish or otherwise make available to the public,

- (a) any notices or other documents sent by the Director under this Act; and
- (b) any documents required by this Act, the regulations or the Director to be sent to the Director under this Act, except the documents referred to in subsection 270 (3).

46 Section 278 of the Act is repealed and the following substituted:**Appointment of Director**

278 The Minister shall appoint a Director to exercise the powers and perform duties of the Director under this or any other Act.

BUSINESS NAMES ACT

47 (1) *The Business Names Act* is amended by adding the following heading before section 1:

INTERPRETATION

(2) Section 1 of the Act is amended by adding the following definitions:

“day” means a clear day: (“jour”)

“electronic signature” means an identifying mark or process that is,

- (a) created or communicated using telephonic or electronic means,
- (b) attached to or associated with a document or other information, and
- (c) made or adopted by a person to associate the person with the document or other information, as the case may be: (“signature électronique”)

(3) The definition of “Minister” in section 1 of the Act is repealed and the following substituted:

“Minister” means the member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*: (“ministre”)

(4) The definition of “Registrar” in section 1 of the Act is amended by striking out “section 3” at the end and substituting “section 1.1”.**(5) Section 1 of the Act is amended by adding the following definition:**

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, an automated touch-tone telephone system, computer or computer networks: (“moyen de communication téléphonique ou électronique”)

(6) Section 1 of the Act is amended by adding the following subsection:**Interpretation re period of days**

(2) In this Act, a period of days is deemed to commence on the day following the event that began the period and is deemed to terminate at midnight of the last day of the period, except that if the last day of the period falls on a holiday, the period terminates at midnight of the next day that is not a holiday.

48 The Act is amended by adding the following sections:

ADMINISTRATION

Registrar

1.1 (1) The Minister shall appoint a Registrar to carry out the duties and exercise the powers of the Registrar under this Act and the *Limited Partnerships Act*.

Delegation of duties and powers

(2) The Registrar may delegate, in writing, any or all of the Registrar’s duties and powers under this Act or the *Limited Partnerships Act* to any person, subject to any restrictions set out in the delegation.

Records

(3) The Registrar shall maintain a record of every registration made under this Act and every declaration filed under the *Limited Partnerships Act*.

Available to the public

(4) Any person is entitled, using any search method approved by the Registrar, to search and obtain copies of the records maintained by the Registrar under this Act or the *Limited Partnerships Act*.

Corporation number

(5) The Registrar may assign a corporation number to a corporation that has not already been assigned a number where the Registrar is of the opinion that it is appropriate to do so.

Same

(6) If through inadvertence or otherwise the Registrar has assigned a corporation number to a corporation under subsection (5) that is the same as the corporation number previously assigned to another corporation, the Registrar may, without holding a hearing, change the number assigned to the corporation.

Same

(7) If for any reason, the Registrar has assigned more than one corporation number to a corporation, the Registrar may, without holding a hearing, determine which corporation number will be assigned to the corporation.

Agreements with authorized persons

1.2 (1) In this section,

“business filing services” includes any of the duties and powers of the Registrar and related services.

Agreements to provide business filing services

(2) The Minister or a person designated by the Minister may, on behalf of the Crown in right of Ontario, enter into one or more agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Registrar or other government official.

Not Crown agent

(3) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services is not an agent of the Crown for any purpose, despite the *Crown Agency Act*, unless a regulation provides otherwise.

Use, etc., of records and information

(4) An agreement entered into under subsection (2) may also include provisions respecting the use, disclosure, sale or licensing of records and information required under this Act.

Discretion to delegate unaffected by agreement

(5) An agreement entered into under subsection (2) does not affect the Registrar’s power to delegate any duties or powers under subsection 1.1 (2).

No power to waive or refund fees for services

(6) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services may not waive or refund all or part of any fee for such a service that is payable to the Province of Ontario, but the person or entity may pay all or part of the fee on behalf of the person or entity to whom the service was provided.

Deemed date of receipt by Registrar

(7) Forms filed for registration and other documents and information sent to a person or entity that has entered into an agreement under subsection (2), that authorizes the person or entity to receive forms filed for registration and other documents and information on behalf of the Registrar, are deemed to be received by the Registrar on the date that they are received by the authorized person or entity.

Agreements for use, etc., of records and information

(8) The Minister or the Registrar, or a person designated by the Minister or the Registrar, may enter into an agreement with any person or entity respecting the use, disclosure, sale or licensing of records and information required under this Act.

Property of Crown

1.3 The records and information filed with and maintained by the Registrar under this Act and the *Limited Partnerships Act* are the property of the Crown.

49 The Act is amended by adding the following heading before section 2:

REGISTRATION

50 Section 3 of the Act is repealed.

51 (1) Subsection 4 (2) of the Act is repealed and the following substituted:

Refusal to accept name for registration

(2) The Registrar may refuse to accept for registration a name that does not comply with this Act or the prescribed requirements.

(2) Subsection 4 (4) of the Act is amended by striking out “in the prescribed form”.

(3) Clause 4 (7) (a) of the Act is amended by adding “this Act or” before “the prescribed requirements”.

52 The Act is amended by adding the following sections:

Certain amended registrations not required

4.1 (1) Despite subsection 4 (4), a registrant shall not register an amended registration showing a change in information regarding a corporation if,

(a) the change was previously made in accordance with this Act or another Act; and

(b) the Registrar has already recorded the change in the records maintained under subsection 1.1 (3) and issued an amended registration showing the change.

Same

(2) Despite subsection 4 (4), a registrant shall not register an amended registration showing a change in information in respect of a person that is not a corporation if,

- (a) the person has previously been assigned a business identification number under this Act or the *Limited Partnerships Act*;
- (b) the change was previously made in accordance with this Act or the *Limited Partnerships Act*; and
- (c) the Registrar has already recorded the change in the records maintained under subsection 1.1 (3) and issued an amended registration showing the change.

Accepting copy of notice or other document

5.1 If a notice or other document is required to be sent to the Registrar under this Act, the Registrar may accept a copy of it, including an electronic copy.

53 Subsections 8 (2) and (3) of the Act are repealed and the following substituted:

Signature

(2) A certificate or certified copy referred to in subsection (1) must be signed by the Registrar or by a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations.

Evidence

(3) A certificate or certified copy referred to in subsection (1) is admissible in evidence in all courts as proof, in the absence of evidence to the contrary, of the contents of the document or of the non-registration of a name, as the case may be, without proof of the appointment or signature of the person appearing to have signed the certificate or certified copy.

Reproduction of signature

(4) For the purposes of this section, any signature of the Registrar or of a public servant may be printed or otherwise mechanically or electronically reproduced.

54 (1) Subsection 9 (1) of the Act is amended by striking out “Records prepared and maintained by the Registrar” at the beginning and substituting “Records prepared and maintained by the Registrar under this Act or the *Limited Partnerships Act*”.

(2) Subsections 9 (2), (3) and (4) of the Act are repealed and the following substituted:

Admission as evidence

(2) If records maintained by the Registrar are prepared and maintained other than in written form,

- (a) the Registrar shall give any copy required to be given under this Act in intelligible written form; and
- (b) a report reproduced from those records that purports to be certified by the Registrar or by a public servant referred to in subsection 8 (2) is, without proof of the office or signature of the person appearing to have signed the certificate or certified copy, admissible in evidence.

Copies

(3) The Registrar is not required to produce the original of a document if a copy is given in compliance with clause (2) (a).

55 (1) The Act is amended by adding the following heading before section 9.1:

GENERAL

(2) Subsection 9.1 (2) of the Act is repealed and the following substituted:

Same

(2) A notice or other document referred to in subsection (1) may be sent by telephonic or electronic means if there is a record that the notice or other document has been sent and, for greater certainty, the sending of a notice or other document by telephonic or electronic means does not require the consent of the intended recipient.

(3) Subsection 9.1 (5) of the Act is repealed.

56 The Act is amended by adding the following sections:

Documents may be publicly available

9.2 The Registrar may publish or otherwise make available to the public,

- (a) any notices or other documents sent by the Registrar under this Act; and
- (b) any documents required by this Act, the regulations or the Registrar to be sent to the Registrar under this Act.

Filing by fax

9.3 Despite any regulation made under section 19.1, documents may be filed by fax only with the Registrar's consent

Electronic version prevails

9.4 If a document is filed for registration in an electronic format and there is a conflict between the electronic version and any other version of the registration, the electronic version of the registration recorded in an electronic system maintained under section 9, or a printed copy of the electronic version, prevails over any other version of the registration that may exist, regardless of whether the other version of the registration has been executed in accordance with this Act, the regulations and the Registrar's requirements.

Inability to receive filings in electronic system

9.5 (1) Despite any regulation made under clause 10.1 (1) (e), if the Registrar is of the opinion that it is not possible, for any reason, to receive forms filed for registration and other documents and information in an electronic format in an electronic system maintained under section 9, the Registrar may require that they be filed in paper format alone in accordance with the Registrar's requirements, if any, or in another electronic format approved by the Registrar.

Same, retaining filings and requests until system is operational

(2) If the Registrar is of the opinion that it is not possible, for any reason, to issue registrations of names or to amend, renew or cancel registrations using an electronic system maintained under section 9, the Registrar may retain forms filed for registration, amendment, renewal or cancellation, and other documents and information that have been filed until it is possible for the Registrar to issue them in accordance with this Act, the regulations and the Registrar's requirements, if any.

Same, searches

(3) If the Registrar is of the opinion that it is not possible, for any reason, for searches to be made of an electronic system maintained under section 9, the Registrar may retain search requests that have been filed until it is possible for searches to be made.

57 (1) Section 10.1 of the Act is repealed and the following substituted:**Minister's regulations and orders****Regulations**

10.1 (1) The Minister may make regulations,

- (a) prescribing or governing anything described in this Act as prescribed or done by, or in accordance with, the regulations;
- (b) exempting any class of person or business from the application of section 2 of this Act or any provision of the regulations and prescribing conditions for the exemption;
- (c) respecting and governing the content, form, format and filing of forms filed for registration and other documents and information filed with, or issued by, the Registrar and the form, format and payment of fees;
- (d) respecting and governing the manner of completion, submission and acceptance of forms filed for registration and other documents and information filed with the Registrar, the payment of fees and the determination of the date of receipt;
- (e) designating documents and information to be filed with the Registrar,
 - (i) in paper or electronic format,
 - (ii) in electronic format alone, or
 - (iii) in paper format alone;
- (f) prescribing and prohibiting the use of connotations, suggestions, words, expressions or phrases in a name shown in a registration;
- (g) prescribing the punctuation marks and other marks that may form part of a registered name under subsection 4 (3);
- (h) subject to any terms and conditions specified in the regulation, prescribing and governing documents and information that are required to support forms filed for registration and other forms approved under section 10.2 and specifying, for each of the formats designated under clause (e),
 - (i) the documents and information that must be filed with the Registrar, together with forms filed for registration and other forms approved under section 10.2, and
 - (ii) the documents and information that must be retained by the corporation or other person and, upon receipt of and in accordance with written notice from the Registrar, and subject to any terms and conditions imposed by the Registrar, that must be filed with the Registrar or given to any other person specified in the notice;
- (i) permitting the Registrar, subject to any terms and conditions imposed by the Registrar, for each of the formats designated under clause (e),

- (i) to require that a document or information prescribed under subclause (h) (i) be retained by the corporation or other person and, upon receipt of and in accordance with written notice from the Registrar, be filed with the Registrar or given to any other person specified in the notice, and
- (ii) to require that a document or information prescribed under subclause (h) (ii) be filed with the Registrar, together with forms filed for registration and other forms approved under section 10.2;
- (j) governing the terms and conditions that the Registrar may impose pursuant to a regulation made under subclause (h) (ii) or clause (i);
- (k) respecting and governing the issuing of documents by the Registrar, including rules respecting the issuing of documents by electronic means;
- (l) governing the assignment of corporation numbers under section 1.1;
- (m) governing the retention and destruction of registrations, certificates and other documents and information filed with the Registrar, including the form and format in which they must be retained;
- (n) prescribing duties and powers of the Registrar in respect of this Act in addition to those set out in this Act;
- (o) designating public servants employed under Part III of the *Public Service of Ontario Act, 2006*, or classes of them, for the purpose of issuing certificates and certified copies under subsection 8 (2);
- (p) providing that a person or entity that enters into an agreement under subsection 1.2 (2) is an agent of the Crown and specifying the services and purposes for which the person or entity is considered to be an agent of the Crown;
- (q) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (r) prescribing any matter that the Minister considers necessary or advisable for the purposes of this Act;
- (s) providing for transitional matters that the Minister considers necessary or advisable in connection with the implementation of amendments to this Act enacted by Schedule 6 to the *Cutting Unnecessary Red Tape Act, 2017*.

Rolling incorporation by reference

- (2) A regulation made under subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

Fees

- (3) The Minister may, by order, require the payment of fees for registrations, late renewals, search reports, copies of documents or information or other services under this Act, approve the amount of those fees and provide for the waiver or refund of all or any part of any of those fees.

Non-application of *Legislation Act, 2006*

- (4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made by the Minister under subsection (3).

(2) Clause 10.1 (1) (s) of the Act, as enacted by subsection (1), is repealed.

58 Section 10.2 of the Act is repealed and the following substituted:

Forms

- 10.2 (1) The Registrar may require that forms approved by the Registrar be used for any purpose under this Act.

Non-application of *Legislation Act, 2006*

- (2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Registrar under subsection (1).

Methods of issuing

- 10.3 The Registrar may issue certificates, certified copies and other documents by any method, and may use or issue validation codes or other systems or methods of validation in respect of the issuance under this Act or the *Limited Partnerships Act*.

Requirements established by Registrar

- 10.4 (1) The Registrar may establish requirements.

- (a) respecting and governing the content, form, format and filing of forms filed for registration and other documents and information filed with or issued by the Registrar and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of forms filed for registration and other documents and information filed with the Registrar, the payment of fees and the determination of the date of receipt.

- (c) specifying that forms filed for registration and other documents and information may be filed with the Registrar and fees may be paid only by a person authorized by the Registrar or who belongs to a class of persons authorized by the Registrar;
- (d) governing the authorization of persons described in clause (c), including.
 - (i) establishing conditions and requirements to be an authorized person.
 - (ii) imposing terms and conditions on an authorization, including terms and conditions governing the filing of forms filed for registration and other documents and information and the payment of fees, and
 - (iii) requiring any person who applies for an authorization to enter into an agreement with the Registrar, or a person designated by the Registrar, governing the filing of forms filed for registration and other documents and information;
- (e) specifying whether and which forms approved under section 10.2 and supporting documents must be signed, specifying requirements respecting their signing, and governing the form and format of signatures, including establishing rules respecting electronic signatures;
- (f) specifying and governing methods of executing forms approved under section 10.2 and supporting documents, other than by signing them, and establishing rules respecting those methods;
- (g) specifying requirements for corporations or other persons filing forms approved under section 10.2 electronically to keep a properly executed version of them in paper or electronic format and, if required by notice from the Registrar, to provide a copy of the executed version to the Registrar within the time period set out in the notice;
- (h) establishing the time and circumstances when forms filed for registration and other documents and information are considered to be sent to or received by the Registrar, and the place where they are considered to have been sent or received;
- (i) establishing technology standards and requirements for filing forms for registration and other documents and information in electronic format with the Registrar and for paying fees in electronic format;
- (j) specifying a type of copy of a court order or other document issued by the court that may be filed with the Registrar;
- (k) respecting and governing the issuing of documents by the Registrar, including rules respecting the issuing of documents by electronic means;
- (l) governing the assignment of corporation numbers under section 1.1;
- (m) governing searches and search methods of records for the purpose of subsection 1.1 (4).

Classes

- (2) For the purposes of clause (1) (c), a class may be defined,
 - (a) in terms of any attribute or combination of attributes; or
 - (b) as consisting of, including or excluding a specified member.

Non-application of *Legislation Act, 2006*

- (3) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Registrar under subsection (1).

Conflict

- (4) If there is a conflict between a requirement established under this section and a regulation made under this Act, the regulation prevails to the extent of the conflict.

59 Section 11 of the Act is repealed.

60 Subsections 39 (2) and (3) of Schedule E to the *Red Tape Reduction Act, 1998* are repealed.

BUSINESS REGULATION REFORM ACT, 1994

61 Section 2 of the *Business Regulation Reform Act, 1994* is amended by adding the following definition:

“business identification Minister” means the Minister of Government and Consumer Services or the minister of the Crown to whom the powers and duties under sections 8 to 8.5 are assigned or transferred under the *Executive Council Act*; (“ministre chargé de l’identification des entreprises”)

62 Section 3 of the Act is repealed and the following substituted:

Designation of Acts

- 3 The Lieutenant Governor in Council may by regulation designate any Act for the purpose of this Act.

63 Subsections 8 (2) to (5) of the Act are repealed and the following substituted:**Agreements with Canada**

(2) The business identification Minister may enter into agreements with the Crown in right of Canada or an agent of the Crown in right of Canada for the purpose of integrating a system of business identifiers established under this Act with any system of business identifiers established by the Crown in right of Canada or by an agent of the Crown in right of Canada.

Agreements with local authorities

(3) The business identification Minister may, with the approval of the Crown in right of Canada or of an agent of the Crown in right of Canada with whom they have an agreement under subsection (2), enter into agreements with a municipality, local board or other municipal entity in Ontario for the purpose of integrating a system of business identifiers established under this Act with any system of business identifiers established by the municipality, local board or municipal entity.

64 Section 8.1 of the Act is repealed and the following substituted:**Business ID and information sharing — Ministries and agencies****Business ID agreements**

8.1 (1) The business identification Minister may enter into agreements with another Minister of the Crown in right of Ontario or with an agency, board or commission established under an Act of Ontario requiring the other Minister's Ministry, the agency, the board or the commission to,

- (a) assign business identifiers to businesses in accordance with the system of business identifiers established under this Act;
- (b) use the system of business identifiers for any other purpose.

Getting information from a person who is subject to an Act

(2) If an agreement under this section is entered into in relation to any Act, the Minister responsible for the administration of that Act may require that a person subject to that Act provide prescribed business information to that Minister and update business information that the person previously provided to that Minister.

Getting information from a business that interacts with a Minister

(3) If an agreement under this section that is not an agreement referred to in subsection (2) is entered into in relation to any ministerial function, and in the course of exercising that function the Minister responsible for that function receives information from a business, the Minister responsible for that function may require that the business provide prescribed business information to that Minister and update business information that the business previously provided to that Minister.

Centralizing information from a person who is subject to an Act

(4) If an agreement under this section is entered into in relation to any Act, the Minister responsible for the administration of that Act shall disclose business information received by them under that Act, or received by them under subsection (2), to the business identification Minister.

Centralizing information from a business that interacts with a Minister

(5) If an agreement under this section is entered into in relation to any ministerial function, the Minister responsible for that function shall disclose business information received by them in exercising that function, or received by them under subsection (3), to the business identification Minister.

Information sharing with other levels of government

(6) The business identification Minister may disclose the business information they receive under this section to the Crown in right of Canada or to an agent of the Crown in right of Canada.

Same, information already received

(7) After an agreement under this section is entered into, subsection (6) applies to business information that the business identification Minister received before the agreement was entered into as if they received it after the agreement was entered into.

Business ID Minister's own Ministry

(8) A directive from the business identification Minister to their own Ministry requiring the Ministry to do the things set out in clauses (1) (a) and (b) is deemed to be an agreement entered into under this section.

Business ID and information sharing — certain corporations**Business ID agreements**

8.2 (1) The business identification Minister may enter into agreements with a corporation that administers a designated Act or provisions of a designated Act on behalf of the Crown in right of Ontario, or with a Crown corporation that exercises powers or performs duties under a designated Act, requiring the corporation to,

- (a) assign business identifiers to businesses in accordance with the system of business identifiers established under this Act;
- (b) use the system of business identifiers for any other purpose.

Centralizing information

- (2) If an agreement under this section is entered into with a corporation, the business identification Minister may:
- (a) require that the corporation provide prescribed business information to the business identification Minister;
 - (b) receive business information from the corporation.

Information sharing with other levels of government

- (3) The business identification Minister may disclose the business information they receive under this section to:
- (a) a municipality, local board or other municipal entity;
 - (b) the Crown in right of Canada or an agent of the Crown in right of Canada.

Same, information already received

- (4) After an agreement under this section is entered into, subsection (3) applies to business information that the business identification Minister received before the agreement was entered into as if they received it after the agreement was entered into.

Business ID and information sharing — local authorities**Business ID agreements**

8.3 (1) The business identification Minister may enter into agreements with a municipality, local board or other municipal entity requiring the municipality, local board or municipal entity to,

- (a) assign business identifiers to businesses in accordance with the system of business identifiers established under this section;
- (b) use the system of business identifiers for any other purpose.

Centralizing information

- (2) If an agreement under this section is entered into with a municipality, local board or other municipal entity, the business identification Minister may,

- (a) require that the municipality, local board or municipal entity provide prescribed business information to the business identification Minister; and
- (b) receive business information from the municipality, local board or municipal entity.

Information sharing with other levels of government

- (3) The business identification Minister may disclose the business information they receive under this section to:
- (a) a municipality, local board or other municipal entity;
 - (b) the Crown in right of Canada or an agent of the Crown in right of Canada.

Same, information already received

- (4) After an agreement under this section is entered into, subsection (3) applies to business information that the business identification Minister received before the agreement was entered into as if they received it after the agreement was entered into.

Business ID and information sharing — confidentiality

8.4 A requirement or authority to disclose business information under sections 8.1 to 8.3 or under a regulation made under clause 8.5 (c) or (d) prevails over a confidentiality provision under another Act, unless it is provided under the other Act that the confidentiality provision under the other Act prevails over this section.

Business ID and information sharing — regulations

8.5 The Lieutenant Governor in Council may make regulations,

- (a) providing for the use that businesses are required to make of the system of business identifiers established under this Act;
- (b) prescribing business information for the purposes of sections 8.1 to 8.3;
- (c) authorizing, for specified purposes, the collection, use and disclosure, by specified persons and entities, of specified business information received under any Act or from any municipality, local board or other municipal entity;

(d) authorizing, for specified purposes, the collection, use and disclosure, by municipalities, local boards or other municipal entities, of specified business information received by the business identification Minister.

(i) under any Act, or

(ii) from any municipality, local board or other municipal entity.

65 Section 18 of the Act is amended by adding the following clause:

(d) designating Acts for the purpose of section 3.

CORPORATIONS INFORMATION ACT

66 (1) The *Corporations Information Act* is amended by adding the following heading before section 1:

INTERPRETATION

(2) Section 1 of the Act is amended by adding the following definitions:

“day” means a clear day; (“jour”)

“Director” means the Director appointed under section 278 of the *Business Corporations Act*; (“directeur”)

“electronic signature” means an identifying mark or process that is,

(a) created or communicated using telephonic or electronic means,

(b) attached to or associated with a document or other information, and

(c) made or adopted by a person to associate the person with the document or other information, as the case may be; (“signature électronique”)

(3) The definition of “Minister” in section 1 of the Act is repealed and the following substituted:

“Minister” means the member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

(4) Section 1 of the Act is amended by adding the following definition:

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, an automated touch-tone telephone system, computer or computer networks. (“moyen de communication téléphonique ou électronique”)

(5) Section 1 of the Act is amended by adding the following subsection:

Interpretation re period of days

(2) In this Act, a period of days is deemed to commence on the day following the event that began the period and is deemed to terminate at midnight of the last day of the period, except that if the last day of the period falls on a holiday, the period terminates at midnight of the next day that is not a holiday.

67 The Act is amended by adding the following sections:

Execution of documents

1.1 Any return, notice or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form, each of which is executed by one or more persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, are deemed to constitute one document for the purposes of this Act.

ADMINISTRATION

Delegation

1.2 (1) The Minister may delegate in writing any or all of the Minister’s duties and powers under this Act to any person, subject to any restrictions set out in the delegation.

Same, Director

(2) The Director may delegate in writing any or all of the Director’s duties and powers under this Act to any person, subject to any restrictions set out in the delegation.

Agreements with authorized persons

1.3 (1) In this section,

“business filing services” includes any of the duties and powers of the Minister or the Director and related services

Agreements to provide business filing services

(2) The Minister or a person designated by the Minister may, on behalf of the Crown in right of Ontario, enter into one or more agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Director or other government official.

Not Crown agent

(3) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services is not an agent of the Crown for any purpose despite the *Crown Agency Act*, unless a regulation provides otherwise.

Use, etc., of records and information

(4) An agreement entered into under subsection (2) may also include provisions respecting the use, disclosure, sale or licensing of records and information required under this Act.

Discretion to delegate unaffected by agreement

(5) An agreement entered into under subsection (2) does not affect the power of the Minister or the Director to delegate any duties or powers under subsection 1.2 (1) or (2), as the case may be.

No power to waive or refund fees for services

(6) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services may not waive or refund all or part of any fee for such a service that is payable to the Province of Ontario, but the person or entity may pay all or part of the fee on behalf of the person or entity to whom the service was provided.

Deemed date of receipt by Minister

(7) Returns, notices and other documents and information sent to a person or entity that has entered into an agreement under subsection (2), that authorizes the person or entity to receive returns, notices and other documents and information on behalf of the Minister, are deemed to be received by the Minister on the date that they are received by the authorized person or entity.

Agreements for use, etc., of records and information

(8) The Minister or the Director, or a person designated by the Minister or the Director, may enter into an agreement with any person or entity respecting the use, disclosure, sale or licensing of records and information required under this Act.

Property of Crown

1.4 The records and information filed with and maintained by the Minister under this Act are the property of the Crown.

68 (1) The Act is amended by adding the following heading before subsection 2 (1):

FILINGS AND RECORDS

(2) Subsection 2 (2) of the Act is repealed and the following substituted:

When filed

(2) Subject to subsection (3), the initial return must be filed within 60 days after the date of incorporation, amalgamation or continuation of the corporation.

Same, before name is registered

(3) If the corporation was not incorporated, amalgamated or continued under the *Business Corporations Act*, the *Corporations Act*, the *Co-operative Corporations Act* or the *Not-for-Profit Corporations Act, 2010*, and the corporation is required to register a name under the *Business Names Act*, the initial return must be filed before the corporation's name is registered.

69 Subsection 3 (2) of the Act is repealed and the following substituted:

When filed

(2) Subject to subsections (3) and (4), the initial return must be filed within 60 days after the date the corporation begins to carry on business in Ontario.

Same, before name is registered

(3) If the corporation, other than a corporation that is required to obtain a licence under the *Extra-Provincial Corporations Act*, is required to register a name under the *Business Names Act*, the initial return must be filed before the corporation's name is registered.

Same, revised appointment of an agent for service

(4) If the corporation is required to file a revised appointment of an agent for service under subsection 19 (3) of the *Extra-Provincial Corporations Act*, the initial return must be filed forthwith after the name, address or any other particular set out in the appointment of agent changed or the agent was substituted.

70 (1) Subsection 4 (1) of the Act is repealed and the following substituted:**Notice of change**

(1) Subject to subsections (2.1), (3), (4) and (5), every corporation shall file with the Minister a notice of change for every change in the information filed under this Act, within 15 days after the day the change takes place.

(2) Section 4 of the Act is amended by adding the following subsections:**Change in agent for service**

(2.1) A notice of change must be filed forthwith after a change in the name, address or any other particular set out in an appointment of agent required to be filed under subsection 19 (3) of the *Extra-Provincial Corporations Act* or after the agent was substituted.

Same

(5) An extra-provincial corporation that is required under the *Extra-Provincial Corporations Act* to apply for an amended licence where it has changed its name or has been ordered to change its name, or where it has continued under the laws of another jurisdiction, shall not file a notice of change in respect of these changes.

71 Subsection 5 (1) of the Act is repealed and the following substituted:**Verification**

(1) Every return filed under section 2, 3 or 3.1 and every notice filed under section 4 shall be verified by the certificate of:

- (a) an officer or director of the corporation; or
- (b) an individual who has been authorized by the directors of the corporation to verify the return or notice and who has knowledge of the affairs of the corporation.

72 Subsection 6 (2) of the Act is repealed and the following substituted:**Same**

(2) Upon receipt of the notice, a corporation shall make the special filing in the approved form and in the prescribed manner within the prescribed time.

73 Subsection 7.1 (2) of the Act is repealed and the following substituted:**Same**

(2) A notice or other document referred to in subsection (1) may be sent by telephonic or electronic means if there is a record that the notice or other document has been sent and, for greater certainty, the sending of a notice or other document by telephonic or electronic means does not require the consent of the intended recipient.

74 The Act is amended by adding the following sections:**Filing by fax**

7.2 Despite any regulation made under section 21.1, returns, notices and other documents may be filed by fax only with the Director's consent.

Electronic version prevails

7.3 If a return, notice or prescribed document is filed in an electronic format and there is a conflict between the electronic version and any other version of the return, notice or prescribed document, the electronic version of the return, notice or prescribed document recorded in an electronic system maintained under section 9, or a printed copy of the electronic version, prevails over any other version of the return, notice or prescribed document that may exist, regardless of whether the other version of the return, notice or prescribed document has been executed in accordance with this Act, the regulations and the Director's requirements.

Information sharing

8.1 (1) If the Minister receives all the prescribed information referred to in subsection 3 (1), 3.1 (4) or 4 (2), as the case may be, from a prescribed jurisdiction responsible for the administration of an Act of that jurisdiction governing an extra-provincial corporation, the Minister may enter the information into the record referred to in section 8 as if the corporation had filed the return or notice required by section 3, 3.1 or 4, and the corporation is deemed to have filed the return or notice under that section.

Information received from two sources

(2) Subject to the regulations, if the Minister receives some prescribed information from a prescribed jurisdiction described in subsection (1) and if the Minister receives all remaining prescribed information from the corporation, the Minister may enter the information into the record referred to in section 8 as if the corporation had filed the return or notice required by subsection 3, 3.1 or 4, and the corporation is deemed to have filed the return or notice under that section.

Notice to corporation

(3) The Minister shall notify the corporation within 15 days after the Minister enters information into the record under subsection (1) that the information to be included in a return or notice required by section 3, 3.1 or 4 has been received from a prescribed jurisdiction and has been entered into the record referred to in section 8.

Information to prescribed jurisdictions

(4) The Minister may send information that has been filed by a corporation under this Act to a prescribed jurisdiction that is responsible for the administration of a statute that governs the corporation.

Information not in a return or notice

(5) Subject to the regulations, if the Minister receives information that a corporation is dissolved or other prescribed information in respect of a corporation from a prescribed jurisdiction, the Minister may record the information in the records maintained under section 9.

75 Subsections 9 (2) and (3) of the Act are repealed and the following substituted:**Admission as evidence**

(2) If records maintained by the Minister are prepared and maintained other than in written form,

- (a) the Minister shall give any copy required to be given under subsection 10 (2) in intelligible written form; and
- (b) a report reproduced from those records that purports to be certified by the Minister or by a public servant referred to in subsection 20 (1) is, without proof of the office or signature of the person appearing to have signed the certificate, admissible in evidence.

76 Subsection 10 (1) of the Act is repealed and the following substituted:**Search, etc., of records**

(1) A person who has paid the required fee is entitled, using any search method approved by the Director, to search and obtain copies of the record of any document filed under section 2, 3, 3.1, 4, 6 or 7 or any predecessor of those sections.

77 The Act is amended by adding the following sections:**Documents may be publicly available**

10.1 The Director may publish or otherwise make available to the public,

- (a) any notices or other documents sent by the Minister under this Act; and
- (b) any documents required by this Act, the regulations or the Director to be sent to the Minister under this Act.

Inability to receive filings in electronic system

10.2 (1) Despite any regulation made under clause 21.1 (1) (e), if the Director is of the opinion that it is not possible, for any reason, to receive returns, notices and other documents and information filed in an electronic format in an electronic system maintained under section 9, the Director may require that they be filed in paper format alone in accordance with the Director's requirements, if any, or in another electronic format approved by the Director.

Same, retaining filings and requests until system is operational

(2) If the Director is of the opinion that it is not possible, for any reason, to enter into the record the information from returns, notices or other documents using an electronic system maintained under section 9, the Director may retain returns, notices and other documents and information that have been filed until it is possible for the Director to enter the information into the record in accordance with this Act, the regulations and the Director's requirements, if any.

Same, searches

(3) If the Director is of the opinion that it is not possible, for any reason, for searches to be made of an electronic system maintained under section 9, the Director may retain search requests that have been filed until it is possible for searches to be made.

Accepting copy of notice or other document

10.3 If a notice or other document is required to be sent to the Ministry under this Act, the Ministry may accept a copy of it, including an electronic copy.

78 (1) Subsection 11 (1) of the Act is amended by striking out “the *Corporations Act* or the *Co-operative Corporations Act*” at the end and substituting “the *Co-operative Corporations Act*, the *Corporations Act*, the *Extra-Provincial Corporations Act* or the *Not-for-Profit Corporations Act*, 2010”.

(2) Subsection 11 (2) of the Act is repealed and the following substituted:

Confidentiality

(2) The Minister, any employee in the Ministry or any other public servant authorized to collect or review information contained in a return under subsection (1), shall not disclose any information contained in a return made under subsection (1) except where the disclosure is necessary for the administration or enforcement of this Act, the *Business Corporations Act*, the *Co-operative Corporations Act*, the *Corporations Act*, the *Extra-Provincial Corporations Act* or the *Not-for-Profit Corporations Act*, 2010 or where disclosure is required by a court for the purposes of any proceeding.

79 Section 12 of the Act is repealed.

80 The Act is amended by adding the following heading before subsection 13 (1):

ENFORCEMENT

81 The Act is amended by adding the following heading before subsection 18 (1):

GENERAL

82 (1) Section 19 of the Act is amended by striking out “or” at the end of clause (d), by adding “or” at the end of clause (e) and by adding the following clause:

- (f) that a corporation,
 - (i) has made filings required to be sent to the Ministry under this Act,
 - (ii) has paid all required fees under this Act, the *Business Corporations Act*, the *Business Names Act*, the *Corporations Act*, the *Extra-Provincial Corporations Act*, the *Limited Partnerships Act* or the *Not-for-Profit Corporations Act*, 2010,
 - (iii) is not in default in complying with a prescribed Act, or
 - (iv) exists as of the specified date or dates.

(2) Section 19 of the Act is amended by adding the following subsection:

Refusal to issue certificate

(2) The Minister may refuse to issue a certificate described in clause (1) (f) if the Minister has knowledge that the corporation is in default of sending a document required to be sent under this Act, is in default in complying with a prescribed Act or is in default of paying a required fee.

83 Section 20 of the Act is repealed and the following substituted:

Minister’s certificate, etc.

20 (1) If this Act requires or authorizes the Minister to issue a certificate, including a certificate as to any fact, or a certified copy of a document, the certificate or certified copy must be signed by the Minister or by a public servant employed under Part III of the *Public Service of Ontario Act*, 2006 and designated by the regulations.

Evidence

(2) A certificate or certified copy purporting to be signed by the Minister or by a public servant referred to in subsection (1) shall be received in evidence in any prosecution or other proceeding as proof, in the absence of evidence to the contrary, of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the certificate or certified copy.

Reproduction of signature

(3) For the purposes of this section, any signature of the Minister or of a public servant may be printed or otherwise mechanically or electronically reproduced.

Methods of issuing

20.1 The Minister may issue certificates, certified copies and other documents by any method, and may use or issue validation codes or other systems or methods of validation in respect of the issuance.

84 (1) Section 21.1 of the Act is repealed and the following substituted:

Minister's regulations and orders

Regulations

21.1 (1) The Minister may make regulations.

- (a) prescribing or governing anything described in this Act as prescribed or done by or in accordance with the regulations;
- (b) exempting any class or classes of corporations from filing returns or notices under section 2, 3, 3.1 or 6;
- (c) respecting and governing the content, form, format and filing of returns, notices and other documents and information filed or issued under this Act and the form, format and payment of fees;
- (d) respecting and governing the manner of completion, submission and acceptance of returns, notices and other documents and information filed under this Act, the payment of fees and the determination of the date of receipt;
- (e) designating returns, notices and other documents and information to be filed under this Act.
 - (i) in paper or electronic format,
 - (ii) in electronic format alone, or
 - (iii) in paper format alone;
- (f) subject to any terms and conditions specified in the regulation, prescribing and governing documents and information that are required to support returns, notices and other forms approved under section 21.3 and specifying, for each of the formats designated under clause (e),
 - (i) the documents and information that must be filed with the Ministry, together with returns, notices and other forms approved under section 21.3, and
 - (ii) the documents and information that must be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, and subject to any terms and conditions imposed by the Director, that must be filed with the Ministry or given to any other person specified in the notice;
- (g) permitting the Director, subject to any terms and conditions imposed by the Director, for each of the formats designated under clause (e),
 - (i) to require that a document or information prescribed under subclause (f) (i) be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Ministry or given to any other person specified in the notice, and
 - (ii) to require that a document or information prescribed under subclause (f) (ii) be filed with the Ministry, together with returns, notices and other forms approved under section 21.3;
- (h) governing the terms and conditions that the Director may impose pursuant to a regulation made under subclause (f) (ii) or clause (g);
- (i) respecting and governing the issuance of documents by the Director or the Minister, including rules respecting the issuance by electronic means;
- (j) governing the assignment of corporation numbers under section 21.5;
- (k) governing the retention and destruction of returns, notices and other documents and information filed under this Act, including the form and format in which they must be retained;
- (l) prescribing duties and powers of the Director in addition to those set out in this Act;
- (m) designating public servants employed under Part III of the *Public Service of Ontario Act, 2006*, or classes of them, for the purpose of issuing certificates and certified copies under subsection 20 (1);
- (n) providing that a person or entity that enters into an agreement under subsection 1.3 (2) is an agent of the Crown and specifying the services and purposes for which the person or entity is considered to be an agent of the Crown;
- (o) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (p) prescribing any matter that the Minister considers necessary or advisable for the purposes of this Act;
- (q) providing for transitional matters that the Minister considers necessary or advisable in connection with the implementation of amendments to this Act enacted by Schedule 6 to the *Cutting Unnecessary Red Tape Act, 2017*.

Rolling incorporation by reference

- (2) A regulation made under subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

Fees

(3) The Minister may, by order, require the payment of fees for search reports, copies of documents or information, or other services under this Act, approve the amount of those fees and provide for the waiver or refund of all or any part of any of those fees.

Non-application of *Legislation Act, 2006*

(4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made by the Minister under subsection (3).

(2) Clause 21.1 (1) (q) of the Act, as enacted by subsection (1), is repealed.

85 Section 21.3 of the Act is repealed and the following substituted:

Forms

21.3 (1) The Director may require that forms approved by the Director under this Act or under the *Extra-Provincial Corporations Act* be used for any purpose under this Act.

Non-application of *Legislation Act, 2006*

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

Requirements established by Director

21.4 (1) The Director may establish requirements,

- (a) respecting and governing the content, form, format, and filing of returns, notices and other documents and information filed or issued under this Act and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of returns, notices and other documents and information filed under this Act, the payment of fees and the determination of the date of receipt;
- (c) specifying that returns, notices and other documents and information may be filed under this Act and fees may be paid only by a person authorized by the Director or who belongs to a class of persons authorized by the Director;
- (d) governing the authorization of persons described in clause (c), including,
 - (i) establishing conditions and requirements to be an authorized person,
 - (ii) imposing terms and conditions on an authorization, including terms and conditions governing the filing of returns, notices and other documents and information and the payment of fees, and
 - (iii) requiring any person who applies for an authorization to enter into an agreement with the Director, or a person designated by the Director, governing the filing of returns, notices and other documents and information;
- (e) specifying whether and which returns, notices and other forms approved under section 21.3 and supporting documents must be signed, specifying requirements respecting their signing, and governing the form and format of signatures, including establishing rules respecting electronic signatures;
- (f) specifying and governing methods of executing returns, notices and other forms approved under section 21.3 and supporting documents, other than by signing them, and establishing rules respecting those methods;
- (g) specifying requirements for corporations filing returns, notices and other forms approved under section 21.3 electronically to keep a properly executed version of them at the registered office in paper or electronic format and, if required by notice from the Director, to provide a copy of the executed version to the Director within the time period set out in the notice;
- (h) establishing the time and circumstances when returns, notices or other documents and information are considered to be sent to or received by the Ministry, and the place where they are considered to have been sent or received;
- (i) establishing technology standards and requirements for filing returns, notices or other documents and information in electronic format with the Ministry and for paying fees in electronic format;
- (j) respecting the authorization of an individual who may verify a return or notice under subsection 5 (1);
- (k) specifying a type of copy of a court order or other document issued by the court that may be filed with the Ministry;
- (l) respecting and governing the issuance of documents by the Director or the Minister, including rules respecting the issuance by electronic means;
- (m) governing the assignment of corporation numbers under section 21.5;
- (n) governing searches and search methods of records for the purposes of subsection 10 (1).

Classes

- (2) For the purposes of clause (1) (c), a class may be defined,
- (a) in terms of any attribute or combination of attributes; or
 - (b) as consisting of, including or excluding a specified member.

Agreement under s. 21.2

- (3) Requirements respecting filing established under this section do not apply to returns that are filed pursuant to an agreement entered into under section 21.2.

Non-application of *Legislation Act, 2006*

- (4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

Conflict

- (5) If there is a conflict between a requirement established under this section and a regulation made under this Act, the regulation prevails to the extent of the conflict.

Assignment of corporation numbers to existing corporations

- 21.5** (1) The Director may assign a corporation number to a corporation that has not already been assigned a corporation number if the Director is of the opinion that it is appropriate to do so.

Same, changing number

- (2) If, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number that is the same as the corporation number previously assigned to another corporation, the Director may, without holding a hearing, change the number assigned to the corporation.

Same

- (3) If, for any reason, the Director has assigned more than one corporation number to a corporation, the Director may, without holding a hearing, determine which corporation number will be assigned to the corporation.

86 Section 22 of the Act is repealed.**87 Subsections 85 (4) and (5) of Schedule E to the *Red Tape Reduction Act, 1998* are repealed.****EXTRA-PROVINCIAL CORPORATIONS ACT****88 (1) The *Extra-Provincial Corporations Act* is amended by adding the following heading before subsection 1 (1):****INTERPRETATION****(2) Subsection 1 (1) of the Act is amended by adding the following definitions:**

“day” means a clear day; (“jour”)

“electronic signature” means an identifying mark or process that is,

- (a) created or communicated using telephonic or electronic means,
- (b) attached to or associated with a document or other information, and
- (c) made or adopted by a person to associate the person with the document or other information, as the case may be: (“signature électronique”)

(3) The definition of “endorse” in subsection 1 (1) of the Act is repealed and the following substituted:

“endorse” includes,

- (a) imprinting a stamp, in accordance with subsection 5 (2), on the face of an application sent to the Director, and
- (b) electronically producing an equivalent to a stamp in respect of an application or other documents sent to the Director: (“produire”)

(4) The definition of “Minister” in subsection 1 (1) of the Act is repealed and the following substituted:

“Minister” means the member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

(5) Subsection 1 (1) of the Act is amended by adding the following definition:

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, an automated touch-tone telephone system, computer or computer networks. (“moyen de communication téléphonique ou électronique”)

(6) Section 1 of the Act is amended by adding the following subsection:

Interpretation re period of days

(4) In this Act, a period of days is deemed to commence on the day following the event that began the period and is deemed to terminate at midnight of the last day of the period, except that if the last day of the period falls on a holiday, the period terminates at midnight of the next day that is not a holiday.

89 The Act is amended by adding the following section:

Execution of documents

1.1 Any application or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form each of which is executed by one or more persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, are deemed to constitute one document for the purposes of this Act.

90 Section 3 of the Act is repealed and the following substituted:

ADMINISTRATION

Appointment of Director

3 The Minister shall appoint a Director to carry out the duties and exercise the powers of the Director under this Act.

Delegation of Director’s duties and powers

3.1 The Director may delegate in writing any or all of the Director’s duties and powers under this Act to any person, subject to any restrictions set out in the delegation.

Signature

3.2 (1) If this Act requires or authorizes the Director to endorse a licence or to issue a certificate, including a certificate as to any fact, or a certified copy of a document, the licence, certificate or certified copy must be signed by the Director or by a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations.

Evidence

(2) A licence or certificate referred to in subsection (1) or a certified copy of it, when introduced as evidence in any civil, criminal or administrative action or proceeding, is, in the absence of evidence to the contrary, proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the endorsed licence or certificate.

Reproduction of signature

(3) For the purposes of this section, any signature authorized under this section may be printed or otherwise mechanically or electronically reproduced.

Agreements with authorized persons

3.3 (1) In this section,

“business filing services” includes any of the duties and powers of the Director and related services.

Agreements to provide business filing services

(2) The Minister or a person designated by the Minister may, on behalf of the Crown in right of Ontario, enter into one or more agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Director or other government official.

Not Crown agent

(3) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services is not an agent of the Crown for any purpose despite the *Crown Agency Act*, unless a regulation provides otherwise.

Use, etc., of records and information

(4) An agreement entered into under subsection (2) may also include provisions respecting the use, disclosure, sale or licensing of records and information required under this Act.

Discretion to delegate unaffected by agreement

(5) An agreement entered into under subsection (2) does not affect the Director’s power to delegate any duties or powers under section 3.1.

No power to waive or refund fees for services

(6) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services may not waive or refund all or part of any fee for such a service that is payable to the Province of Ontario, but the person or entity may pay all or part of the fee on behalf of the person or entity to whom the service was provided.

Deemed date of receipt by Director

(7) Applications and other documents and information sent to a person or entity that has entered into an agreement under subsection (2), that authorizes the person or entity to receive applications and other documents and information on behalf of the Director, are deemed to be received by the Director on the date that they are received by the authorized person or entity.

Agreements for use, etc., of records and information

(8) The Minister or the Director, or a person designated by the Minister or the Director, may enter into an agreement with any person or entity respecting the use, disclosure, sale or licensing of records and information required under this Act.

Property of Crown

3.4 The records and information filed with and maintained by the Director under this Act are the property of the Crown.

91 The Act is amended by adding the following heading before subsection 4 (1):

LICENSING

92 Subsections 5 (1), (2), (3) and (4) of the Act are repealed and the following substituted:

Application for licence, etc.

(1) Unless otherwise provided in this Act, the regulations or the Director's requirements, an extra-provincial corporation may make an application for a licence, an amended licence or a termination of licence by sending the application to the Director.

Application in paper format

(2) If the application is sent to the Director in paper format, one original of the application must be signed by a director or officer of the corporation and sent to the Director in the approved form.

Application in electronic format

(3) If the application is sent to the Director in an electronic format, the application,

- (a) must meet any signature or authorization requirements established by the Director under section 24.4; and
- (b) must be sent to the Director in a format that is prescribed by the Minister or required by the Director.

Director's endorsement

(4) Unless otherwise provided in this Act, the regulations or the Director's requirements, when the Director receives an application completed in accordance with subsection (2) or (3), the Director may endorse the application with a licence, an amended licence or a termination of a licence setting out the day, month and year of endorsement and the corporation number.

Same

(4.1) If the Director so endorses the application, the Director shall,

- (a) file the endorsed application in the records maintained under section 16.1; and
- (b) send or otherwise make available to the corporation or its representative a copy of the licence, amended licence or termination of the licence.

Date of endorsement

(4.2) An endorsement referred to in subsection (4) must be dated as of,

- (a) the day the Director receives,
 - (i) the application completed in accordance with subsection (2) or (3),
 - (ii) all other required documents executed in accordance with this Act, the regulations and the Director's requirements,
 - (iii) all other required information, and
 - (iv) the required fee; or
- (b) any later date that is acceptable to the Director and specified by the person who submitted the application.

Effective date of endorsement

(4.3) An endorsement under this section is effective on the date shown in the endorsement even if any action required to be taken by the Director under this Act with respect to the endorsement of the application and filing or recording of the licence, amended licence or termination of the licence by the Director is taken at a later date.

Incorrect assignment of corporation number

(4.4) If, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number that is the same as the corporation number previously assigned to another corporation, the Director may, without holding a hearing, change the corporation number assigned to the corporation and any licence subsequently endorsed for the corporation under this Act must bear its new corporation number.

Reissue of licence

(4.5) If a new corporation number is assigned to a corporation under subsection (4.4), the Director may reissue the licence, and the reissued licence must bear the new corporation number.

Corrected corporation number

(4.6) If the Director has endorsed a licence, amended licence or termination of a licence that sets out the corporation number incorrectly, the Director may substitute a corrected licence that bears the date of the licence it replaces.

Same

(4.7) If, for any reason, the Director has assigned more than one corporation number to a corporation, the Director may, without holding a hearing, determine which corporation number will be assigned to the corporation, and may cancel a licence showing a corporation number that is no longer assigned to the corporation.

93 The Act is amended by adding the following sections:**Electronic version prevails**

5.1 (1) If an application referred to in subsection 5 (1) is filed in an electronic format and there is a conflict between the electronic version and any other version of the application, the electronic version of the application endorsed with the licence, amended licence or termination of the licence under this Act and recorded in an electronic system maintained under section 16.1, or a printed copy of the electronic version, prevails over any other version of the application that may exist, regardless of whether the other version of the application has been executed in accordance with this Act, the regulations and the Director's requirements.

Same, prescribed documents

(2) If a prescribed document is filed in an electronic format and there is a conflict between the electronic version and any other version of the document, the electronic version of the document recorded in an electronic system maintained under section 16.1, or a printed copy of the electronic version, prevails over any other version of the document that may exist, regardless of whether the other version of the document has been executed in accordance with this Act, the regulations and the Director's requirements.

Filing by fax

5.2 Despite any regulation made under section 24.1, applications and other documents may be filed by fax only with the Director's consent.

94 The French version of section 6 of the Act is repealed and the following substituted:**Refus de produire l'inscription**

6 (1) Si le directeur refuse de produire une inscription à l'égard d'une demande comme il est tenu de le faire aux termes de la présente loi pour y donner effet, il donne par écrit à l'expéditeur un avis motivé de son refus.

Idem

(2) Si le directeur n'a pas produit d'inscription à l'égard de la demande visée au paragraphe 5 (1) dans les six mois de la date à laquelle elle lui a été envoyée, il est réputé, pour l'application de l'article 8, avoir refusé de le faire.

95 (1) The French version of clause 8 (1) (a) of the Act is repealed and the following substituted:

a) de refuser de produire une inscription à l'égard d'une demande;

(2) The French version of clause 8 (1) (d) of the Act is repealed and the following substituted:

d) d'exiger qu'un permis rectifié soit produit aux termes de l'article 13;

96 Section 13 of the Act is repealed and the following substituted:

Errors in licence

13 (1) If a licence contains an error, the corporation may apply to the Director for a corrected licence and, if requested by the Director, shall surrender the licence to the Director within the time period specified by the Director.

Same

(2) If the Director is aware that a licence contains an error, the Director may notify the corporation that a corrected licence may be required and the corporation shall, if requested by the Director, surrender the licence to the Director within the time period specified by the Director.

Director to endorse corrected licence

(3) After giving the corporation an opportunity to be heard in respect of an error described in subsection (1) or (2) and if the Director is of the opinion that it is appropriate to do so and is satisfied that any steps required by the Director have been taken by the corporation, the Director shall endorse a corrected licence.

Date on corrected licence

(4) A corrected licence endorsed under subsection (3) may bear the date of the licence it replaces.

Same

(5) If a correction is made with respect to the date of the endorsement, the corrected licence shall bear the corrected date.

97 The Act is amended by adding the following heading before subsection 14 (1):

GENERAL

98 The French version of clause 16 (a) of the Act is repealed and the following substituted:

- a) la production ou non-production du permis d'une personne morale;

99 The Act is amended by adding the following sections:

Form of Director's records

16.1 (1) Records required by this Act to be prepared and maintained by the Director may be in paper form, in electronic form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or information storage that is capable of reproducing required information in an accurate and intelligible form within a reasonable time.

Admission as evidence

(2) If the records maintained by the Director are prepared and maintained other than in written form,

- (a) the Director shall give any copy required to be given under this Act in intelligible written form; and
- (b) a report reproduced from those records that purports to be certified by the Director or by a public servant referred to in section 3.2 is, without proof of the office or signature of the person appearing to have signed the certificate, admissible in evidence.

Copy in lieu of document

(3) The Director is not required to produce any document if a copy of the document is given in compliance with clause (2) (a).

Search, etc., of records

(4) A person who has paid the required fee is entitled, using any search method approved by the Director, to search and obtain copies of any document required by this Act, the regulations or the Director to be sent to the Director.

Documents may be publicly available

16.2 The Director may publish or otherwise make available to the public,

- (a) any documents sent by the Director under this Act; and
- (b) any documents required by this Act, the regulations or the Director to be sent to the Director under this Act.

Inability to receive filings in electronic system

16.3 (1) Despite any regulation made under clause 24.1 (1) (f), if the Director is of the opinion that it is not possible, for any reason, to receive applications and other documents and information in an electronic format in an electronic system maintained under section 16.1, the Director may require that they be filed in paper format alone in accordance with the Director's requirements, if any, or in another electronic format approved by the Director.

Same, retaining filings and requests until system is operational

(2) If the Director is of the opinion that it is not possible, for any reason, to endorse or issue applications or other documents using an electronic system maintained under section 16.1, the Director may retain applications and other documents that have been filed until it is possible for the Director to endorse or issue them in accordance with this Act, the regulations and the Director's requirements, if any.

Same, searches

(3) If the Director is of the opinion that it is not possible, for any reason, for searches to be made of an electronic system maintained under section 16.1, the Director may retain search requests that have been filed until it is possible for searches to be made.

Accepting copy of notice or other document

16.4 (1) If a notice or other document is required to be sent to the Director under this Act, the Director may accept a copy of it, including an electronic copy.

Exception

(2) Unless otherwise provided in the regulations, subsection (1) does not apply to applications filed in paper format.

100 Section 17 of the Act is repealed.

101 (1) Subsection 19 (2) of the Act is amended by striking out "in the prescribed form" and substituting "in the approved form".

(2) Subsection 19 (3) of the Act is amended by striking out "in the prescribed form" and substituting "in the approved form".

(3) Subsection 19 (5) of the Act is repealed and the following substituted:

Same

(5) A notice or other document referred to in subsection (4) may be sent by telephonic or electronic means if there is a record that the notice or other document has been sent and, for greater certainty, the sending of a notice or other document by telephonic or electronic means does not require the consent of the intended recipient.

102 The French version of clause 23 (1) (a) of the Act is repealed and the following substituted:

a) le permis demeure en vigueur et est réputé produit aux termes de la présente loi;

103 (1) Section 24.1 of the Act is repealed and the following substituted:**Minister's regulations and orders****Regulations**

24.1 (1) The Minister may make regulations,

- (a) prescribing or governing anything described in this Act as prescribed or done by or in accordance with the regulations;
- (b) prescribing classes of extra-provincial corporations and exempting any class of extra-provincial corporation from all or any part of the provisions of this Act upon the terms and conditions, if any, that are prescribed;
- (c) respecting and governing the content, form, format and filing of applications and other documents and information filed with or issued by the Director and the form, format and payment of fees;
- (d) respecting the evidence required upon the application for a licence under this Act, including evidence as to the incorporation of the extra-provincial corporation, its powers, objects and existence as a valid and subsisting corporation;
- (e) respecting and governing the manner of completion, submission and acceptance of applications and other documents and information filed with the Director, the payment of fees and the determination of the date of receipt;
- (f) designating applications and other documents and information to be filed with the Director.
 - (i) in paper or electronic format,
 - (ii) in electronic format alone, or
 - (iii) in paper format alone;
- (g) subject to any terms and conditions specified in the regulation, prescribing and governing documents and information that are required to support applications and other forms approved under section 24.2 and specifying, for each of the formats designated under clause (f),
 - (i) the documents and information that must be filed with the Director, together with applications and other forms approved under section 24.2, and

- (ii) the documents and information that must be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, and subject to any terms and conditions imposed by the Director, that must be filed with the Director or given to any other person specified in the notice;
- (h) permitting the Director, subject to any terms and conditions imposed by the Director, for each of the formats designated under clause (f),
 - (i) to require that a document or information prescribed under subclause (g) (i) be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Director or given to any other person specified in the notice,
 - (ii) to require that a document or information prescribed under subclause (g) (ii) be filed with the Director, together with applications and other forms approved under section 24.2, and
 - (iii) to require that a document required by this Act to be filed with the Director be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Director or given to any other person specified in the notice;
- (i) governing the terms and conditions that the Director may impose pursuant to a regulation made under subclause (g) (ii) or clause (h);
- (j) respecting and governing the endorsement and issuing of licences and other documents by the Director, including rules respecting the endorsement and issuance by electronic means;
- (k) governing the assignment of corporation numbers under section 5;
- (l) respecting names of extra-provincial corporations or classes of them;
- (m) prohibiting the use of any words or expressions in a corporate name;
- (n) prescribing the punctuation marks and other marks that may form part of a name of an extra-provincial corporation;
- (o) prescribing the conditions and limitations that may be specified in licences;
- (p) respecting the appointment and continuance, by extra-provincial corporations, of an agent for service on whom service or process notices or other proceedings may be made and the powers to be conferred on such an agent;
- (q) governing the retention and destruction of applications and other documents and information filed with the Director, including the form and format in which they must be retained;
- (r) prescribing duties and powers of the Director in addition to those set out in this Act;
- (s) designating public servants employed under Part III of the *Public Service of Ontario Act, 2006*, or classes of them, for the purposes of endorsing licences and issuing certificates, including certificates as to any fact and certifying true copies of documents required or authorized under this Act;
- (t) providing that a person or entity that enters into an agreement under subsection 3.3 (2) is an agent of the Crown and specifying the services and purposes for which the person or entity is considered to be an agent of the Crown;
- (u) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (v) prescribing any matter that the Minister considers necessary or advisable for the purposes of this Act;
- (w) providing for transitional matters that the Minister considers necessary or advisable in connection with the implementation of amendments to this Act enacted by Schedule 6 to the *Cutting Unnecessary Red Tape Act, 2017*.

Rolling incorporation by reference

(2) A regulation made under subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

Fees

(3) The Minister may, by order, require the payment of fees for search reports, copies of documents or information, or other services under this Act, approve the amount of those fees and provide for the waiver or refund of all or any part of any of those fees.

Non-application of *Legislation Act, 2006*

(4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made by the Minister under subsection (3).

(2) Clause 24.1 (1) (w) of the Act, as enacted by subsection (1), is repealed.

104 Section 24.2 of the Act is repealed and the following substituted:

Forms

24.2 (1) The Director may require that forms approved by the Director be used for any purpose under this Act.

Non-application of *Legislation Act, 2006*

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

Methods of endorsing and issuing

24.3 The Director may endorse applications and issue certificates, certified copies and other documents by any method, and may use or issue validation codes or other systems or methods of validation in respect of the endorsement and issuance under this Act.

Requirements established by Director

24.4 (1) The Director may establish requirements.

- (a) respecting and governing the content, form, format and filing of applications and other documents and information filed with or issued by the Director and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of applications and other documents and information filed with the Director, the payment of fees and the determination of the date of receipt;
- (c) specifying that applications and other documents and information may be filed with the Director and fees may be paid only by a person authorized by the Director or who belongs to a class of persons authorized by the Director;
- (d) governing the authorization of persons described in clause (c), including:
 - (i) establishing conditions and requirements to be an authorized person,
 - (ii) imposing terms and conditions on an authorization, including terms and conditions governing the filing of applications and other documents and information and the payment of fees, and
 - (iii) requiring any person who applies for an authorization to enter into an agreement with the Director, or a person designated by the Director, governing the filing of applications and other documents and information;
- (e) specifying whether and which applications and other forms approved under section 24.2 and supporting documents must be signed, specifying requirements respecting their signing, and governing the form and format of signatures, including establishing rules respecting electronic signatures;
- (f) specifying and governing methods of executing applications, other documents and other forms approved under section 24.2 and supporting documents, other than by signing them, and establishing rules respecting those methods;
- (g) specifying requirements for corporations filing applications and other documents and other forms approved under section 24.2 electronically to keep a properly executed version of them at the registered office in paper or electronic format and, if required by notice from the Director, to provide a copy of the executed version to the Director within the time period set out in the notice;
- (h) if this Act specifies requirements respecting the signing of applications and other documents filed with the Director, specifying and governing alternative requirements for their signing or providing that signing is not required;
- (i) establishing the time and circumstances when applications and other documents and information are considered to be sent to or received by the Director, and the place where they are considered to have been sent or received;
- (j) establishing technology standards and requirements for the filing of applications and other documents and information in electronic format with the Director and for paying fees in electronic format;
- (k) specifying a type of copy of a court order or other document issued by the court that may be filed with the Director;
- (l) respecting and governing the endorsement and issuing of licences and other documents by the Director, including rules respecting the endorsement and issuance by electronic means;
- (m) governing the assignment of corporation numbers under section 5;
- (n) governing searches and search methods of records for the purpose of subsection 16.1 (4).

Classes

(2) For the purposes of clause (1) (c), a class may be defined.

- (a) in terms of any attribute or combination of attributes; or
- (b) as consisting of, including or excluding a specified member.

Non-application of *Legislation Act, 2006*

(3) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

Conflict

(4) If there is a conflict between a requirement established under this section and a regulation made under this Act, the regulation prevails to the extent of the conflict.

105 Section 25 of the Act is repealed.

106 Subsections 92 (2), (3) and (4) of Schedule E to the *Red Tape Reduction Act, 1998* are repealed.

LIMITED PARTNERSHIPS ACT

107 (1) Section 1 of the *Limited Partnerships Act* is amended by adding the following definitions:

“day” means a clear day; (“jour”)

“electronic signature” means an identifying mark or process that is,

- (a) created or communicated using telephonic or electronic means,
- (b) attached to or associated with a document or other information, and
- (c) made or adopted by a person to associate the person with the document or other information, as the case may be: (“signature électronique”)

“Minister” means the member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, an automated touch-tone telephone system, computer or computer networks. (“moyen de communication téléphonique ou électronique”)

(2) Section 1 of the Act is amended by adding the following subsection:

Interpretation re period of days

(2) In this Act, a period of days is deemed to commence on the day following the event that began the period and is deemed to terminate at midnight of the last day of the period, except that if the last day of the period falls on a holiday, the period terminates at midnight of the next day that is not a holiday.

108 The Act is amended by adding the following section:

Execution of documents

1.1 Any declaration or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form, each of which is executed by one or more persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, are deemed to constitute one document for the purposes of this Act.

109 Section 3 of the Act is repealed and the following substituted:

Formation of limited partnership

3 (1) A limited partnership is formed when a declaration is accepted for filing with the Registrar in accordance with this Act and any applicable regulations and Registrar’s requirements.

Declaration

(2) Unless otherwise provided in this Act, the regulations or the Registrar’s requirements, a declaration shall be signed by all of the general partners desiring to form a limited partnership and shall state the prescribed information and any information required by the Registrar under section 36.

Expiry of declaration

(3) Every declaration filed under subsection (1), including a declaration filed by an extra-provincial limited partnership, expires five years after the date that it is accepted for filing or that is prescribed unless the declaration is cancelled by filing a declaration of dissolution or the declaration is replaced by filing a renewal of a declaration before the expiry date.

Subsequent filing

(4) A limited partnership is not dissolved if a declaration expires, but an additional fee in the required amount is payable for the subsequent filing of a renewal of a declaration.

110 The Act is amended by adding the following section:

Inability to receive filings in electronic system

4.1 (1) Despite any regulation made under clause 35.1 (1) (d), if the Registrar is of the opinion that it is not possible, for any reason, to receive declarations and other documents and information in an electronic format in an electronic system maintained under section 9 of the *Business Names Act*, the Registrar may require that they be filed in paper format alone in accordance with the Registrar's requirements, if any, or in another electronic format approved by the Registrar.

Same, retaining filings and requests until system is operational

(2) If the Registrar is of the opinion that it is not possible, for any reason, to issue declarations using an electronic system maintained under section 9 of the *Business Names Act*, the Registrar may retain declarations and other documents and information that have been filed until it is possible for the Registrar to issue them in accordance with this Act, the regulations and the Registrar's requirements, if any.

Same, searches

(3) If the Registrar is of the opinion that it is not possible, for any reason, for searches to be made of an electronic system maintained under section 9 of the *Business Names Act*, the Registrar may retain search requests that have been filed until it is possible for searches to be made.

111 (1) Subsections 6 (1) and (2) of the Act are repealed and the following substituted:**Restriction in name of partnership**

(1) The full name or surname of a limited partner or a distinctive part of the corporate name of a limited partner shall not appear in the firm name of the limited partnership unless it is also the full name or surname of one of the general partners or a distinctive part of the corporate name of one of the general partners, as the case may be.

Liability if limited partner

(2) If the full name or surname of a limited partner or a distinctive part of the corporate name of a limited partner appears in the firm name contrary to subsection (1), the limited partner is liable as a general partner to any creditor of the limited partnership who has extended credit without actual knowledge that the limited partner is not a general partner.

(2) Section 6 of the Act is amended by adding the following subsections:**Language of firm name**

(4) A limited partnership may have a firm name that is in,

- (a) an English form only;
- (b) a French form only;
- (c) a French and English form, where the French and English are used together in a combined form; or
- (d) a French form and an English form, where the French and English forms are equivalent but are used separately.

Same

(5) A limited partnership that has a firm name described in clause (4) (d) may be legally designated by the French or English version of its firm name.

Permitted letters, numerals, etc.

(6) Only letters from the Roman alphabet, Arabic numerals or a combination of letters from the Roman alphabet and Arabic numerals, together with punctuation marks and other marks that are prescribed, may form part of the firm name of a limited partnership.

112 The Act is amended by adding the following section:**Firm name and filing declaration**

6.1 (1) The Registrar may refuse to accept a declaration under subsection 3 (1), 19 (1) or 25 (1) or (7) if the firm name of the limited partnership does not comply with this Act or the prescribed requirements.

Declaration of change required

(2) If the Registrar accepts a declaration for filing for a limited partnership that is not an extra-provincial limited partnership and if the declaration sets out a firm name that does not comply with this Act or the prescribed requirements, the Registrar may give notice to the limited partnership requiring it to file a declaration of change under subsection 19 (2), within the time specified in the notice, that sets out a firm name that complies with this Act and the prescribed requirements.

Same, extra-provincial limited partnership

(3) If the Registrar accepts a declaration for filing for an extra-provincial limited partnership and if the declaration sets out a firm name that does not comply with this Act or the prescribed requirements, the Registrar may give notice to the limited partnership requiring it, within the time specified in the notice, to file.

- (a) a declaration of change under subsection 25 (7) that sets out a firm name that complies with this Act and the prescribed requirements; or
- (b) a declaration of withdrawal under subsection 25 (8).

Registrar may issue declaration of change

(4) If a limited partnership that is not an extra-provincial limited partnership fails to file a declaration of change in accordance with subsection (2), the Registrar may, subject to subsections (6), (7) and (8), issue a declaration of change changing the name of the limited partnership to a name specified in the declaration.

Cancellation of declaration for extra-provincial limited partnership

(5) If an extra-provincial limited partnership fails to file a declaration of change or a declaration of withdrawal in accordance with subsection (3), the Registrar may, subject to subsections (6), (7) and (8), cancel the declaration described in subsection (1).

Notice

(6) Before issuing a declaration changing the name under subsection (4) or cancelling a declaration under subsection (5), the Registrar shall give the limited partnership 21 days' notice of his or her intention to do so.

Appeal

(7) A limited partnership that receives notice under subsection (6) may appeal to the Divisional Court within 21 days after receipt of the notice.

Same

(8) If a notice under subsection (6) is under appeal, the Registrar shall not issue a declaration under subsection (4) or cancel a declaration under subsection (5), as the case may be, unless a final determination is made upholding the Registrar's decision.

113 (1) Subsections 19 (1) and (2) of the Act are repealed and the following substituted:

Declaration of change

(1) A declaration of change shall be filed with the Registrar for every change in information required to be stated in the declaration under subsection 3 (1), including a change in the firm name of a limited partnership.

Exception

(2) Despite subsection (1), a declaration of change shall not be filed for a change of information in respect of a general partner that is a corporation if,

- (a) the change in information was previously made in accordance with this Act or another Act; and
- (b) the Registrar has recorded the change in the records maintained under subsection 1.1 (3) of the *Business Names Act* and issued a declaration of change showing the change.

Same

(2.1) Despite subsection (1), a declaration of change shall not be filed for a change of information in respect of a general partner that is not a corporation if,

- (a) the general partner was previously assigned a business identification number for the purposes of the *Business Names Act*;
- (b) the change of information was previously filed by the general partner under that Act; and
- (c) the Registrar has recorded the change in the records maintained under subsection 1.1 (3) of that Act and issued a declaration of change showing the change in information.

(2) Subsection 19 (3) of the Act is amended by adding "Unless otherwise provided in this Act, the regulations or the Registrar's requirements" at the beginning.

(3) The following provisions of section 19 of the Act are amended by striking out "subsection (2)" wherever that expression appears and substituting in each case "subsection (1)":

1. Subsection (4).
2. Subsection (6).

114 Subsection 23 (2) of the Act is amended by adding "Unless otherwise provided in this Act, the regulations or the Registrar's requirements" at the beginning.

115 Subsection 23.1 (2) of the Act is repealed and the following substituted:

Same

(2) A notice or other document referred to in subsection (1) may be sent by telephonic or electronic means if there is a record that the notice or other document has been sent and, for greater certainty, the sending of a notice or other document by telephonic or electronic means does not require the consent of the intended recipient.

116 Section 23.2 of the Act is repealed and the following substituted:**Documents may be publicly available**

23.2 The Registrar may publish or otherwise make available to the public,

- (a) any notices or other documents sent by the Registrar under this Act; and
- (b) any documents required by this Act, the regulations or the Registrar to be sent to the Registrar under this Act.

Cancellation of declaration

23.3 The Registrar may cancel a declaration filed under subsection 3 (1) or 25 (1) if the limited partnership is given 21 days' notice of the intention to cancel for,

- (a) failure to pay the required fee; or
- (b) failure to meet the signature requirements for declarations filed with the Registrar under this Act.

Errors in declaration

23.4 (1) If a declaration filed under this Act contains an error,

- (a) the limited partnership may file an application with the Registrar for a corrected declaration and, if requested by the Registrar, shall surrender the declaration and any related documents to the Registrar within the time period specified by the Registrar; or
- (b) the Registrar may notify the limited partnership that a corrected declaration may be required and the limited partnership shall, if requested by the Registrar, surrender the declaration and any related documents to the Registrar within the time period specified by the Registrar.

Registrar to issue corrected declaration

(2) After giving the limited partnership an opportunity to be heard in respect of an error described in subsection (1) and if the Registrar is of the opinion that it is appropriate to do so and is satisfied that any steps required by the Registrar have been taken by the limited partnership or the general partners, the Registrar shall issue a corrected declaration.

Signing of corrected declaration

(3) Unless otherwise provided in this Act, the regulations or the Registrar's requirements, an application for a corrected declaration filed under this section shall be signed by all of the general partners.

Date on corrected declaration

(4) A corrected declaration issued under subsection (2) may bear the date of the declaration it replaces.

Same

(5) If a correction is made with respect to the date of the declaration, the corrected declaration shall bear the corrected date.

Appeal

(6) A decision of the Registrar under subsection (2) may be appealed to the Divisional Court, and the Court may order the Registrar to change his or her decision and may make such further order as it thinks fit.

117 (1) Subsection 25 (3) of the Act is amended by adding "Unless otherwise provided in this Act, the regulations or the Registrar's requirements" at the beginning.

(2) The French version of subsection 25 (4) of the Act is repealed and the following substituted:

Procuration

(4) La société en commandite extraprovinciale passe une procuration, rédigée selon le formulaire présent, dans laquelle une personne résidant en Ontario ou une personne morale ayant son siège social en Ontario est nommée procureur et représentant de la société en commandite extraprovinciale en Ontario.

(3) Subsection 25 (5) of the Act is amended by striking out "at its address set out in the declaration filed under subsection (1)" at the end and substituting "at the attorney and representative's address set out in the declaration filed under subsection (1)".

(4) Section 25 of the Act is amended by adding the following subsections:

Same

(6.0.1) The Registrar may, at any time by written notice, require any general partner or a limited partnership's attorney and representative to provide a copy of the power of attorney to the Registrar or to any other person.

Same

(6.0.2) Upon receipt of the Registrar's notice, the general partner or limited partnership's attorney and representative to whom the notice is directed shall, within the time specified in the notice, provide a copy of the power of attorney to the Registrar or any other person specified in the notice.

(5) Subsection 25 (6.1) of the Act is repealed.

(6) Subsection 25 (7) of the Act is amended by striking out "other than a change in the firm name" and substituting "including a change in the firm name".

(7) Subsection 25 (8) of the Act is repealed and the following substituted:

Declaration of withdrawal

(8) An extra-provincial limited partnership may cancel the declaration and the power of attorney by filing with the Registrar a declaration of withdrawal.

Signing

(9) Unless otherwise provided in this Act, the regulations or the Registrar's requirements, the declaration filed under subsection (8) shall be signed by at least one of the general partners.

118 Subsection 26 (3) of the Act is amended by striking out "at the address stated in the power of attorney filed under subsection 25 (4)" at the end and substituting "at the attorney and representative's address set out in the declaration filed under subsection 25 (1) and stated in the power of attorney executed under subsection 25 (4)".

119 Subsection 27 (1) of the Act is amended by striking out "without filing the declaration and power of attorney required by this Act" at the end and substituting "without filing the declaration or executing the power of attorney as required by this Act".

120 Subsections 28 (1) and (2) of the Act are repealed and the following substituted:

Ability to sue

(1) No extra-provincial limited partnership that has unpaid fees or penalties, or in respect of which a declaration has not been filed or a power of attorney has not been executed as required by this Act, and no member of the extra-provincial limited partnership is capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the extra-provincial limited partnership except with leave of the court.

Same

(2) The court shall grant leave if the court is satisfied that,

- (a) the failure to pay the fees or penalties, file the declaration or execute the power of attorney was inadvertent;
- (b) there is no evidence that the public has been deceived or misled; and
- (c) at the time of the application to the court, the extra-provincial limited partnership has no unpaid fees or penalties and has filed all declarations and executed all powers of attorney required by this Act.

121 Clause 29 (a) of the Act is repealed and the following substituted:

- (a) every general partner who knew that the statement was false or misleading when the general partner,
 - (i) signed the declaration, or
 - (ii) otherwise authorized the declaration in accordance with the requirements established by the Registrar under subsection 36 (1); and

122 The Act is amended by adding the following section:

Filing in electronic format

32.1 (1) Despite sections 3, 19, 23, 25 and 32, if a declaration or prescribed document is filed with the Registrar in an electronic format that is prescribed by the Minister or required by the Registrar, the declaration or prescribed document must meet any signature or authorization requirements established by the Registrar under subsection 36 (1).

Filing by fax

(2) Despite any regulation made under section 35.1, declarations and other documents may be filed by fax only with the Registrar's consent.

Electronic version prevails

(3) If a declaration or prescribed document referred to in subsection (1) is filed in an electronic format and there is a conflict between the electronic version and any other version of the declaration or prescribed document, the electronic version of the declaration or prescribed document recorded in an electronic system maintained under section 9 of the *Business Names Act*, or a printed copy of the electronic version, prevails over any other version of the declaration or prescribed document that may exist, regardless of whether the other version of the declaration or prescribed document has been executed in accordance with this Act, the regulations and the Registrar's requirements.

123 (1) Clause 33 (1) (e) of the Act is amended by striking out "filed with the Registrar" at the end and substituting "required by subsection 25 (4)".

(2) Subsection 33 (2) of the Act is amended by striking out "at the address stated in the power of attorney filed under subsection 25 (4)" at the end and substituting "at the attorney and representative's address set out in the declaration filed under subsection 25 (1) and stated in the power of attorney executed under subsection 25 (4)".

124 Subsection 34 (2) of the Act is repealed and the following substituted:

Application for order for compliance

(2) If a person who is required by this Act to sign, otherwise authorize in accordance with any requirements established under subsection 36 (1) or permit inspection of a document refuses to do so, a person who is aggrieved by the refusal may apply to the Court for an order directing the person to comply with the provisions of this Act, and upon such application, the Court may make such order or any other order that the Court considers appropriate in the circumstances.

125 The Act is amended by adding the following section:

Agreements with authorized persons

35.0.1 (1) In this section,

"business filing services" includes any of the duties and powers of the Registrar and related services.

Agreements to provide business filing services

(2) The Minister or a person designated by the Minister may, on behalf of the Crown in right of Ontario, enter into one or more agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Registrar or other government official.

Not Crown agent

(3) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services is not an agent of the Crown for any purpose despite the *Crown Agency Act*, unless a regulation provides otherwise.

Use, etc., of records and information

(4) An agreement entered into under subsection (2) may also include provisions respecting the use, disclosure, sale or licensing of records and information required under this Act.

Discretion to delegate unaffected by agreement

(5) An agreement entered into under subsection (2) does not affect the Registrar's power to delegate any duties or powers under subsection 1.1 (2) of the *Business Names Act*.

No power to waive or refund fees for services

(6) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services may not waive or refund all or part of any fee for such a service that is payable to the Province of Ontario, but the person or entity may pay all or part of the fee on behalf of the person or entity to whom the service was provided.

Deemed date of receipt by Registrar

(7) Declarations and other documents and information sent to a person or entity that has entered into an agreement under subsection (2) that authorizes the person or entity to receive declarations and other documents and information on behalf of the Registrar, are deemed to be received by the Registrar on the date that they are received by the authorized person or entity.

Agreements for use, etc., of records and information

(8) The Minister or the Registrar or a person designated by the Minister or the Registrar, may enter into an agreement with any person or entity respecting the use, disclosure, sale or licensing of records and information required under this Act.

126 (1) Sections 35.1 and 35.2 of the Act are repealed and the following substituted:

Minister's regulations and orders

Regulations

35.1 (1) The Minister may make regulations.

- (a) prescribing or governing anything described in this Act as prescribed or done by or in accordance with the regulations;
- (b) respecting and governing the content, form, format and filing of declarations and other documents and information filed with or issued by the Registrar and the form, format and payment of fees;
- (c) respecting and governing the manner of completion, submission and acceptance of declarations and other documents and information filed with the Registrar, the payment of fees and the determination of the date of receipt;
- (d) designating declarations and other documents and information to be filed with the Registrar,
 - (i) in paper or electronic format,
 - (ii) in electronic format alone, or
 - (iii) in paper format alone;
- (e) subject to any terms and conditions specified in the regulation, prescribing and governing documents and information that are required to support declarations and other forms approved under section 35.3 and specifying, for each of the formats designated under clause (d),
 - (i) the documents and information that must be filed with the Registrar, together with declarations and other forms approved under section 35.3, and
 - (ii) the documents and information that must be retained by the limited partnership or other person and, upon receipt of and in accordance with written notice from the Registrar and subject to any terms and conditions imposed by the Registrar, that must be filed with the Registrar or given to any other person specified in the notice;
- (f) permitting the Registrar, subject to any terms and conditions imposed by the Registrar, for each of the formats designated under clause (d),
 - (i) to require that a document or information prescribed under subclause (e) (i) be retained by the limited partnership or other person and, upon receipt of and in accordance with written notice from the Registrar, be filed with the Registrar or given to any other person specified in the notice, and
 - (ii) to require that a document or information prescribed under subclause (e) (ii) be filed with the Registrar, together with declarations and other forms approved under section 35.3;
- (g) governing the terms and conditions that the Registrar may impose pursuant to a regulation made under subclause (e) (ii) or clause (f);
- (h) respecting and governing the issuance of declarations and other documents by the Registrar, including rules respecting the issuance by electronic means;
- (i) governing the assignment of corporation numbers under section 1.1 of the *Business Names Act* for the purposes of this Act;
- (j) prescribing and prohibiting the use of connotations, suggestions, words, expressions or phrases in a name shown in a declaration;
- (k) prescribing the punctuation marks and other marks that may form part of a name shown in a declaration;
- (l) governing the retention and destruction of declarations and other documents and information filed with the Registrar, including the form and format in which they must be retained;
- (m) prescribing duties and powers of the Registrar in respect of this Act in addition to those set out in this Act;
- (n) providing that a person or entity that enters into an agreement under subsection 35.0.1 (2) is an agent of the Crown and specifying the services and purposes for which the person or entity is considered to be an agent of the Crown;
- (o) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (p) prescribing any matter that the Minister considers necessary or advisable for the purposes of this Act;
- (q) providing for transitional matters that the Minister considers necessary or advisable in connection with the implementation of amendments to this Act enacted by Schedule 6 to the *Cutting Unnecessary Red Tape Act, 2017*.

Rolling incorporation by reference

(2) A regulation made under subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

Fees

(3) The Minister may, by order, require the payment of fees for search reports, copies of documents or information, filing of documents or other services under this Act, approve the amount of those fees and provide for the waiver or refund of all or any part of any of those fees.

Non-application of *Legislation Act, 2006*

(4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made by the Minister under subsection (3).

Accepting copy of notice or other document

35.2 (1) Where a notice or other document is required to be sent to the Registrar under this Act, the Registrar may accept a copy of it, including an electronic copy.

Exception

(2) Unless otherwise provided in the regulations, subsection (1) does not apply to declarations filed in paper format.

Forms

35.3 (1) Subject to subsection (3), the Registrar may require that forms approved by the Registrar be used for any purpose under this Act.

Non-application of *Legislation Act, 2006*

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Registrar under subsection (1).

Regulation re power of attorney form

(3) The Registrar may make regulations prescribing the form of the power of attorney referred to in subsection 25 (4).

Same

(4) A regulation made under subsection (3) may incorporate, by reference, a power of attorney form as it may be amended from time to time.

(2) Clause 35.1 (1) (q) of the Act, as enacted by subsection (1), is repealed.

127 Section 36 of the Act is repealed and the following substituted:

Requirements established by Registrar

36 (1) The Registrar may establish requirements,

- (a) respecting and governing the content, form, format and filing of declarations and other documents and information filed with or issued by the Registrar and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of declarations and other documents and information filed with the Registrar, the payment of fees and the determination of the date of receipt;
- (c) specifying that declarations and other documents and information may be filed with the Registrar and fees may be paid only by a person authorized by the Registrar or who belongs to a class of persons authorized by the Registrar;
- (d) governing the authorization of persons described in clause (c), including:
 - (i) establishing conditions and requirements to be an authorized person,
 - (ii) imposing terms and conditions on an authorization, including terms and conditions governing the filing of declarations and other documents and information and the payment of fees, and
 - (iii) requiring any person who applies for an authorization to enter into an agreement with the Registrar, or a person designated by the Registrar, governing the filing of declarations and other documents and information,
- (e) specifying whether and which declarations and other forms approved under section 35.3 and supporting documents must be signed, specifying requirements respecting their signing, and governing the form and format of signatures, including establishing rules respecting electronic signatures;
- (f) specifying and governing methods of executing declarations, other forms approved under section 35.3 and supporting documents, other than by signing them, and establishing rules respecting those methods;
- (g) specifying requirements for limited partnerships or other persons filing declarations and other forms approved under section 35.3 electronically,
 - (i) to keep a properly executed version of them in paper or electronic format at:
 - (A) the limited partnership's principal place of business in Ontario, or
 - (B) the address of the limited partnership's attorney and representative set out in the declaration filed under subsection 25 (1) and stated in the power of attorney executed under subsection 25 (4), if the limited partnership is an extra-provincial limited partnership that does not have a principal place of business in Ontario, and

- (ii) if required by notice from the Registrar, to provide a copy of the executed version to the Registrar within the time period set out in the notice;
- (h) if this Act specifies requirements respecting the signing of declarations or other documents filed with the Registrar, specifying and governing alternative requirements for their signing or providing that signing is not required;
- (i) establishing the time and circumstances when declarations and other documents and information are considered to be sent to or received by the Registrar, and the place where they are considered to have been sent or received;
- (j) establishing technology standards and requirements for filing declarations and other documents and information in electronic format with the Registrar and for paying fees in electronic format;
- (k) specifying a type of copy of a court order or other document issued by a court that may be filed with the Registrar;
- (l) respecting and governing the issuance of declarations and other documents by the Registrar, including rules respecting the issuance by electronic means;
- (m) governing the assignment of corporation numbers under section 1.1 of the *Business Names Act* for the purposes of this Act;
- (n) governing searches and search methods of records that are maintained by the Registrar for the purposes of this Act, pursuant to subsection 1.1 (4) of the *Business Names Act*.

Classes

- (2) For the purposes of clause (1) (c), a class may be defined.
 - (a) in terms of any attribute or combination of attributes; or
 - (b) as consisting of, including or excluding a specified member.

Non-application of Legislation Act, 2006

- (3) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Registrar under subsection (1).

Conflict

- (4) If there is a conflict between a requirement established under this section and a regulation made under this Act, the regulation prevails to the extent of the conflict.

128 Subsections 165 (2) and (3) of Schedule E to the *Red Tape Reduction Act, 1998* are repealed.

COMMENCEMENT

Commencement

129 (1) Subject to subsections (2) to (4), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Subsection 1 (3), section 2, subsection 5 (1), sections 7, 8, 9, 10 and 16, subsections 19 (2) and (3) and 20 (2), section 32, subsections 35 (2) and 41 (3), sections 60 to 65, 87, 94, 95, 98, 102 and 106, subsection 117 (2) and section 128 come into force on the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(3) Subsection 18 (2) comes into force on the 25th anniversary of the day subsection 3 (1) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force.

(4) Subsections 40 (2), 57 (2), 84 (2), 103 (2) and 126 (2) come into force on the third anniversary of the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

SCHEDULE 7
MINISTRY OF GOVERNMENT AND CONSUMER SERVICES —
CORPORATIONS ACT AND RELATED AMENDMENTS

CORPORATIONS ACT

1 (1) Section 1 of the *Corporations Act* is amended by adding the following definitions:

“day” means a clear day; (“jour”)

“Director” means the Director appointed under section 278 of the *Business Corporations Act*; (“directeur”)

“electronic signature” means an identifying mark or process that is,

- (a) created or communicated using telephonic or electronic means,
- (b) attached to or associated with a document or other information, and
- (c) made or adopted by a person to associate the person with the document or other information, as the case may be; (“signature électronique”)

(2) The definition of “Minister” in section 1 of the Act is repealed and the following substituted:

“Minister” means the member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

(3) Section 1 of the Act is amended by adding the following definitions:

“social company” means a company that has objects in whole or in part of a social nature; (“compagnie à caractère social”)

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, automated touch-tone telephone system, computer or computer networks; (“moyen de communication téléphonique ou électronique”)

(4) Section 1 of the Act is amended by adding the following subsection:

Interpretation re period of days

(2) In this Act, a period of days is deemed to commence on the day following the event that began the period and is deemed to terminate at midnight of the last day of the period, except that if the last day of the period falls on a holiday, the period terminates at midnight of the next day that is not a holiday.

2 The Act is amended by adding the following section:

Execution of documents

1.1 Any letters patent, notice, resolution, requisition, statement or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form, each of which is executed by one or more persons, and such documents, when duly executed by all persons required or permitted to do so, as the case may be, are deemed to constitute one document for the purposes of this Act.

3 (1) Section 2 of the Act is repealed and the following substituted:

Application of Act

2 (1) This Act, except if it is otherwise expressly provided, applies to,

- (a) a social company that,
 - (i) was incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada,
 - (ii) was incorporated by or under a general or special Act of the Parliament of the late Province of Canada, that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends, and
 - (iii) was incorporated by or under a general or special Act of the Legislature; and
- (b) a corporation that is an insurer within the meaning of subsection 141 (1).

Non-application of Act

(2) This Act does not apply to,

- (a) a corporation to which the *Business Corporations Act*, the *Co-operative Corporations Act* or the *Not-for-Profit Corporations Act*, 2010 applies; or
- (b) a corporation incorporated for the construction and working of a railway, an incline railway or a street railway.

(2) Clause 2 (1) (a) of the Act, as enacted by subsection (1), is repealed and the following substituted:

(a) a social company that,

- (i) was incorporated by or under a special Act of the Parliament of the late Province of Upper Canada,
- (ii) was incorporated by or under a special Act of the Parliament of the late Province of Canada, that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends, or
- (iii) was incorporated by or under a special Act of the Legislature; and

4 (1) The Act is amended by adding the following section before Part I:

Continuance of social companies

2.1 (1) A social company that was incorporated or continued under this Act shall, no later than the fifth anniversary of the day subsection 4 (1) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force, apply, pursuant to a special resolution, to be continued,

- (a) as a corporation without share capital under the *Not-for-Profit Corporations Act, 2010*;
- (b) as a co-operative corporation under the *Co-operative Corporations Act*; or
- (c) as a corporation with share capital under the *Business Corporations Act*.

Dissolution of company if not continued

(2) If a company that is required by subsection (1) to be continued under another Act is not so continued by the fifth anniversary described in that subsection, the company is hereby dissolved on the day after that fifth anniversary.

Saving, to apply for continuance

(3) If a social company that was incorporated or continued under this Act was dissolved under subsection 317 (9) or a predecessor of that subsection before, on or after the day that the subsection 4 (1) described in subsection (1) comes into force, or if it is dissolved under subsection (2), the company is deemed to exist after its dissolution only for any of the following purposes:

- 1. To hold a meeting of the shareholders in order to pass a special resolution to authorize the filing of articles of continuance under one of the Acts listed in subsection (1).
- 2. To apply to the court under subsection (7).
- 3. To file articles of continuance under one of the Acts listed in subsection (1), not later than 20 years after the date of its dissolution.

Approval of special resolution

(4) If a company described in subsection (1) or (3) has more than one class of shareholders, each class must authorize the continuance by approving the special resolution under the applicable one of those subsections by a separate vote.

Minister's consent not required

(5) Despite any requirement under this or any other Act, the Minister's authorization or consent is not required for a company described in subsection (1) or (3) to apply to be continued as provided under those subsections.

Letters patent not to be amended

(6) A company described in subsection (1) shall not file supplementary letters patent under this Act to amend its letters patent in order to bring them into compliance with the Act under which the company applies to be continued under that subsection.

Application to court to waive shareholder approval

(7) If a company described in subsection (1) or (3) is unable to obtain a quorum, including a quorum for each class of shareholders, to approve the special resolution required by the applicable one of those subsections, the company may apply to the court for an order waiving the requirement for a special resolution.

Same

(8) The court may issue the order applied for under subsection (7) on the terms and conditions that the court considers appropriate in the circumstances if the court is satisfied that the company has made reasonable efforts to locate shareholders and to serve them with a notice of meeting.

Revival of dissolved company

(9) If a social company that was incorporated or continued under this Act was dissolved under subsection 317 (9) or a predecessor of that subsection before, on or after the day that the subsection 4 (1) described in subsection (1) comes into

force or if it is dissolved under subsection (2), the company is revived on the date that a certificate of continuance is issued under one of the Acts listed in subsection (1) but the company cannot be revived under this Act on or after the day that the subsection 4 (1) described in subsection (1) comes into force.

Same

(10) Upon revival, the company is deemed for all purposes to have never been dissolved, subject to any terms, conditions and limitations imposed under the Act under which the company is continued, and any rights acquired by any person during the period of dissolution.

Act ceases to apply

(11) This Act ceases to apply to a company described in subsection (1) or (3) upon its being continued under another Act.

(2) Section 2.1 of the Act, as enacted by subsection (1), is repealed.

5 The Act is amended by adding the following sections before Part I:

Delegation

2.2 (1) The Minister may delegate in writing any or all of his or her duties and powers under this Act to any person, subject to any restrictions set out in the delegation.

Same, by Director

(2) The Director may delegate in writing any or all of his or her duties and powers under this Act to any person, subject to any restrictions set out in the delegation.

Agreements with authorized persons

2.3 (1) In this section,

“business filing services” includes any of the duties and powers of the Minister or the Director and related services.

Agreements to provide business filing services

(2) The Minister or a person designated by the Minister may, on behalf of the Crown in right of Ontario, enter into one or more agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Director or other government official.

Not Crown agent

(3) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services is not an agent of the Crown for any purpose despite the *Crown Agency Act*, unless a regulation made under this Act provides otherwise.

Use, etc., of records and information

(4) An agreement entered into under subsection (2) may also include provisions respecting the use, disclosure, sale or licensing of records and information required under this Act.

Discretion to delegate unaffected by agreement

(5) An agreement entered into under subsection (2) does not affect the power of the Minister or the Director to delegate any duties or powers under subsection 2.2 (1) or (2), as the case may be.

No power to waive or refund fees for services

(6) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services may not waive or refund all or part of any fee for such a service that is payable to the Province of Ontario, but the person or entity may pay all or part of the fee on behalf of the person or entity to whom the service was provided.

Deemed date of receipt by Minister

(7) Applications for letters patent or supplementary letters patent and any other applications, documents and information sent to a person or entity that has entered into an agreement under subsection (2), that authorizes the person or entity to receive applications for letters patent or supplementary letters patent and any other applications, documents and information on behalf of the Minister, are deemed to be received by the Minister on the date that they are received by the authorized person or entity.

Agreements for use, etc., of records and information

(8) The Minister or the Director, or a person designated by the Minister or the Director, may enter into an agreement with any person or entity respecting the use, disclosure, sale or licensing of records and information required under this Act.

Property of Crown

2.4 The records and information filed with and maintained by the Minister under this Act are the property of the Crown.

Signature required on letters patent, certificate, etc.

2.5 (1) If the Minister issues letters patent, supplementary letters patent, an order or a certificate as to any fact, or certifies true copies of a document, the letters patent, supplementary letters patent, order, certificate or certified copy must be signed by the Minister, by the Director or by a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations.

Evidence

(2) Letters patent, supplementary letters patent, an order, a certificate or a certified copy referred to in subsection (1), when introduced as evidence in any civil, criminal, administrative, investigative or other action or proceeding, are, in the absence of evidence to the contrary, proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the letters patent, supplementary letters patent, order, certificate or certified copy.

Reproduction of signature

(3) For the purposes of this section, any signature of the Minister, the Director or a public servant may be printed or otherwise mechanically or electronically reproduced.

6 Section 3 of the Act is repealed.

7 Subsection 4 (1) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

8 Subsection 5 (1) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

9 The Act is amended by adding the following sections:**Filing by fax**

5.1 Despite any regulations made under section 326.1, applications for letters patent or supplementary letters patent and any other applications, documents and information may be filed by fax only with the Director’s consent.

Electronic version prevails

5.2 (1) If an application for letters patent, supplementary letters patent, an order or an authorization is filed with the Minister in an electronic format and there is a conflict between the electronic version and any other version of the letters patent, supplementary letters patent, order or authorization, the electronic version of the letters patent, supplementary letters patent, order or authorization issued under this Act and recorded in an electronic system maintained under section 6, or a printed copy of the electronic version, prevails over any other version of the document that may exist, regardless of whether the other version of the document has been executed in accordance with this Act, the regulations and the Director’s requirements.

Same, prescribed documents

(2) If a prescribed document is filed in an electronic format and there is a conflict between the electronic version and any other version of the document, the electronic version of the document recorded in an electronic system maintained under section 6, or a printed copy of the electronic version, prevails over any other version of the document that may exist, regardless of whether the other version of the document has been executed in accordance with this Act, the regulations and the Director’s requirements.

10 Section 6 of the Act is repealed and the following substituted:**Form of Minister’s records**

6 (1) Records required by this Act to be prepared and maintained by the Minister may be in paper form, in electronic form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or information storage that is capable of reproducing required information in an accurate and intelligible form within a reasonable time.

Admission as evidence

(2) If records maintained by the Minister are prepared and maintained other than in written form,

- (a) the Minister shall give any copy required to be given under this Act in intelligible written form; and
- (b) a report reproduced from those records that purports to be certified by the Minister, by the Director or by a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations is, without proof of the office or signature of the person appearing to have signed the certificate or certified copy, admissible in evidence.

Copy in lieu of document

(3) The Minister is not required to produce the original of any document if a copy of the document is given in compliance with clause (2) (a).

Inability to receive filings in electronic system

(4) Despite any regulation made under clause 326.1 (1) (d), if the Director is of the opinion that it is not possible, for any reason, to receive applications for letters patent or supplementary letters patent and any other applications, documents and information in an electronic format in an electronic system maintained under this section, the Director may require that they be filed in paper format alone in accordance with the Director's requirements, if any, or in another electronic format approved by the Director.

Same, retaining filings and requests until system is operational

(5) If the Director is of the opinion that it is not possible, for any reason, to issue letters patent, supplementary letters patent, applications or other documents using an electronic system maintained under this section, or for searches to be made of that system, the Minister or Director, as the case may be, may retain applications for letters patent or supplementary letters patent, other applications and documents and search requests that have been filed until it is possible for the documents to be issued in accordance with this Act, the regulations and the Director's requirements, if any, and for searches to be made.

Search

6.1 A person who has paid the required fee is entitled, using any search method approved by the Director, to search and obtain copies of any document required by this Act, the regulations or the Director to be sent to the Minister.

11 Section 8 of the Act is repealed and the following substituted:**Evidence under oath**

8 The Minister, the Director or any public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations to whom an application is referred, or a person to whom an application is referred under an agreement made under section 2.3, may take evidence under oath with respect to the application.

12 Section 9 of the Act is amended by striking out "Lieutenant Governor" and substituting "Minister".

13 The French version of section 10 of the Act is amended by striking out "d'un décret" and substituting "d'un arrêté".

14 Subsection 12 (2) of the Act is repealed and the following substituted:**Date of letters patent, etc.**

(2) Letters patent, supplementary letters patent, orders and authorizations issued under this Act or a predecessor of this Act must be dated as of,

- (a) the day the Minister receives,
 - (i) the application for them that is in the approved form or in the prescribed or required electronic format and that is completed in accordance with this Act,
 - (ii) all other required documents executed in accordance with this Act, the regulations and the Director's requirements,
 - (iii) all other required information, and
 - (iv) the required fee; or
- (b) any later date that is acceptable to the Director and specified by the person who submitted the application for them or by the court.

Effective date of letters patent, etc.

(3) Letters patent, supplementary letters patent or an order or an authorization issued under this Act or a predecessor of this Act are effective on the date shown on the issued document even if any action required to be taken by the Minister under this Act with respect to the issuance and filing or recording of the document by the Minister is taken at a later date.

15 The Act is amended by adding the following section:**Issue of letters patent, etc.**

12.1 Unless otherwise provided in this Act, the regulations made under this Act or the Director's requirements, upon receipt of an application for letters patent, supplementary letters patent, an order or an authorization that is in the approved form or in the prescribed or required electronic format and that is completed in accordance with this Act, any other required documents and information and the required fee, the Minister may, subject to his or her discretion under this Act and subject to subsection 12 (2),

- (a) issue letters patent, supplementary letters patent, an order or an authorization, as the case may be, with a certificate setting out the day, month and year of issuance and the corporation number;
- (b) file the letters patent, supplementary letters patent, order or authorization issued with a certificate in the records maintained under section 6; and

- (c) send or otherwise make available to the corporation or its representative a copy of the issued letters patent, supplementary letters patent, order or authorization, as the case may be, in a form approved by the Director.

16 Subsection 13 (4) of the Act is repealed and the following substituted:

Copy of order to be filed

- (4) Within 10 days after an order is made under subsection (3), the corporation shall file with the Minister a copy of the order certified under the seal of the court, a notarial copy of the certified copy or any other type of copy permitted by the Director.

17 Subsection 16 (3) of the Act is repealed and the following substituted:

Surrender of documents

- (3) If requested by the Minister, the corporation shall surrender the letters patent or supplementary letters patent being corrected within the time period specified by the Minister.

18 Section 17 of the Act is repealed and the following substituted:

Incorporation

- 17 A company may be incorporated under this Part only if Part V would apply to the company.

19 Subsection 18 (1) of the Act is amended by striking out “Lieutenant Governor” in the portion before paragraph 1 and substituting “Minister”.

20 Subsection 29 (5) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

21 (1) Subsection 34 (1) of the Act is amended by striking out “Lieutenant Governor” in the portion before clause (a) and substituting “Minister”.

(2) Clauses 34 (1) (m), (n) and (q) of the Act are repealed.

(3) Section 34 of the Act is amended by adding the following subsection:

Application of clauses (1) (l), (o), (p)

- (10) Clauses (1) (l), (o) and (p) apply only in respect of an insurer within the meaning of subsection 141 (1).

22 Subsection 61 (1) of the Act is repealed and the following substituted:

Copy to be filed

- (1) A copy certified by an officer of the company to be a true copy, or any other type of copy permitted by the Director of any charge, mortgage or other instrument of hypothecation or pledge made by the company to secure its securities, must be filed forthwith with the Minister.

23 Clause 93 (1) (a) of the Act is repealed and the following substituted:

- (a) notice of the time and place for holding a meeting of the shareholders shall, unless all the shareholders entitled to notice of the meeting have waived in writing such notice, be given in writing 10 days or more before the date of the meeting to each shareholder entitled to notice of the meeting;
- (a.1) if notice under clause (a) is given by mail, it shall be sent by prepaid mail to the shareholder's last address as shown on the company's books;

24 Subsection 94 (6) of the Act is repealed and the following substituted:

Appointment by court

- (6) If, for any reason, no auditor is appointed, the court may, on the application of a shareholder, appoint one or more auditors for that year and fix the remuneration to be paid by the company for the services of the auditor or auditors.

25 Section 112 of the Act is amended by adding the following subsection:

Notice to Minister

- (6) An applicant under this section shall give the Minister notice of the application, and the Minister is entitled to appear before the court and be heard in person or by counsel.

26 Subsection 113 (4) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

27 Section 117 of the Act is repealed.

28 (1) The Act is amended by adding the following section:

Conflicts**Other Acts and regulations prevail**

117.1 (1) If there is a conflict between a provision that applies to a corporation in this Act or in a regulation made under it and a provision that applies to the corporation in any other Act or regulation, the provision in the other Act or regulation prevails.

Charities law prevails

(2) If a provision in this Act or in a regulation made under it that applies to a corporation, the objects of which are exclusively for charitable purposes, conflicts with a law relating to charities, the law relating to charities prevails, regardless of whether it is a provision in another Act or regulation or a rule or principle of common law or equity.

Inconsistent with intent or purpose

(3) A provision in this Act or in a regulation made under it does not apply to a corporation to the extent that it is inconsistent with the intent or purpose of another Act or regulation that applies to the corporation.

Non-application of this section

(4) This section does not apply to a corporation to which Part V applies.

(2) Section 117.1 of the Act, as enacted by subsection (1), is repealed.

29 Section 118 of the Act is repealed and the following substituted:

Incorporation

118 A corporation may be incorporated under this Part only if Part V would apply to the corporation.

30 Subsection 119 (1) of the Act is amended by striking out “Lieutenant Governor” in the portion before paragraph 1 and substituting “Minister”.

31 (1) The Act is amended by adding the following section:

Members’ meetings

125.1 (1) Unless the by-laws of a corporation provide otherwise, a meeting of the members may be held by telephonic or electronic means and a member who, through those means, votes at the meeting or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting.

Non-application of this section

(2) This section does not apply to a corporation to which Part V applies.

(2) Section 125.1 of the Act, as enacted by subsection (1), is repealed.

32 Section 126 of the Act is repealed.

33 (1) The Act is amended by adding the following section:

Capacity and powers, etc.

126.1 (1) A corporation has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

Capacity to act outside Ontario

(2) A corporation has the capacity to carry on its activities, conduct its affairs and exercise its powers in a jurisdiction outside Ontario to the extent that the laws of that jurisdiction permit.

By-law not required to confer power

(3) It is not necessary for a by-law to be passed in order to confer any particular power on a corporation or its directors.

Restricted activities and powers

(4) A corporation shall not carry on any activity or exercise any power that it is restricted from carrying on or exercising by its Act or other instrument of incorporation (which, for greater certainty, would include an instrument amending that instrument); nor shall the corporation exercise any of its powers in a manner contrary to its Act or other instrument of incorporation.

Act not invalid if contrary to instrument of incorporation, etc.

(5) No act of a corporation, including any transfer of property to or by a corporation, is invalid by reason only that the act is contrary to its Act or other instrument of incorporation (which, for greater certainty, would include an instrument amending that instrument), its by-laws or this Act.

Non-application of this section

(6) This section does not apply to a corporation to which Part V applies.

Non-application of other provisions

(7) If this section applies to a corporation,

- (a) clauses 23 (1) (a) to (p) and (s) to (v), subsection 23 (2) and section 59 do not apply to the corporation, despite subsection 133 (1); and
- (b) sections 274 and 275 do not apply to the corporation.

(2) Section 126.1 of the Act, as enacted by subsection (1), is repealed.

34 (1) The Act is amended by adding the following section:

Extraordinary sale, lease or exchange

126.2 (1) A corporation may sell, lease, exchange or dispose of the undertaking of the corporation or any part of such undertaking as an entirety or substantially as an entirety, for such consideration as the corporation thinks fit, if authorized to do so by a special resolution.

Non-application of this section

(2) This section does not apply to a corporation to which Part V applies.

(2) Section 126.2 of the Act, as enacted by subsection (1), is repealed.

35 (1) The Act is amended by adding the following section:

Contract prior to corporate existence**Person who enters contract is bound**

126.3 (1) Except as otherwise provided in this section, a person who enters into a contract in the name of or on behalf of a corporation before it comes into existence is personally bound by the contract and is entitled to the benefits under the contract.

Adoption of contract by corporation

(2) Within a reasonable time after it comes into existence, a corporation may, by any action or conduct signifying its intention to be bound, adopt a contract made in its name or on its behalf before it came into existence, and upon such adoption,

- (a) the corporation is bound by the contract and is entitled to the benefits under the contract as if the corporation had been in existence at the date of the contract and had been a party to it; and
- (b) a person who purported to act in the name of or on behalf of the corporation ceases to be bound by or entitled to the benefits under the contract, subject to subsection (3).

Determination of respective liabilities by court

(3) Subject to subsection (4), whether or not a corporation adopts a contract made before the corporation came into existence, a party to the contract may apply to the court for an order fixing obligations under the contract as joint or joint and several or apportioning liability between the corporation and the person who purported to act in the name of or on behalf of the corporation, and upon such application, the court may make any order it thinks fit.

Exception

(4) If expressly so provided in the contract, a person who purported to act in the name of or on behalf of the corporation before it came into existence is not in any event bound by the contract or entitled to the benefits under it.

Right to amend, assign or terminate contract

(5) Until a corporation adopts a contract made before it came into existence, a person who entered into the contract in the name of or on behalf of the corporation may assign, amend or terminate the contract, subject to the terms of the contract.

Non-application of this section

(6) This section does not apply to a corporation to which Part V applies.

Definition

(7) In this section,

“contract” includes an oral contract.

(2) Section 126.3 of the Act, as enacted by subsection (1), is repealed.

36 (1) The Act is amended by adding the following section:

Duties of directors and officers**Standard of care**

127.1 (1) Every director and officer, in exercising his or her powers and discharging his or her duties to the corporation, shall,

- (a) act honestly and in good faith with a view to the best interests of the corporation; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Duty to comply with Act, etc.

(2) Every director and officer shall comply with,

- (a) this Act and the regulations made under it; and
- (b) the Act or other instrument of incorporation of the corporation (which, for greater certainty, would include an instrument amending that instrument) and the by-laws of the corporation.

Cannot contract out of statutory duty

(3) None of the following relieves a director or an officer of a corporation from the duty to act in accordance with this Act and the regulations made under it or relieves him or her from liability for a breach of this Act or those regulations:

1. A provision in a contract.
2. A provision in the Act or other instrument of incorporation of the corporation (which, for greater certainty, would include an instrument amending that instrument).
3. A provision in the by-laws.
4. A provision in a resolution.

Non-application of this section

(4) This section does not apply to a corporation to which Part V applies.

(2) Section 127.1 of the Act, as enacted by subsection (1), is repealed.

37 (1) The Act is amended by adding the following section:

Removal of directors

127.2 (1) The members of a corporation may, by a resolution passed by a majority of the votes cast at a general meeting, of which notice specifying the intention to pass such resolution has been given, remove from office any director or directors, except persons who are directors by virtue of their office.

Director elected by group of members

(2) A director elected by a group of members that has an exclusive right to elect the director may be removed only by a resolution passed by a majority of the votes cast by the members of that group at a general meeting, of which notice specifying the intention to pass such resolution has been given.

Filling vacancy created by removal of director

(3) A vacancy created by the removal of a director may be filled for the remainder of the term at the members' meeting at which the director is removed or under subsection 288 (2), (3) or (4), as applicable.

Prior letters patent, by-laws, etc.

(4) This section does not affect the operation of any provision respecting the removal of directors in,

- (a) letters patent or supplementary letters patent of a corporation issued before the day subsection 37 (1) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force; or
- (b) by-laws of a corporation passed before the day subsection 37 (1) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force.

Non-application of this section

(5) This section does not apply to a corporation to which Part V applies.

Non-application of s. 67

(6) Despite subsection 183 (1), section 67 does not apply to a corporation to which this Part applies but to which Part V does not apply.

(2) Section 127.2 of the Act, as enacted by subsection (1), is repealed.

38 (1) The Act is amended by adding the following section:

Exemption from annual audit

130.1 (1) Members of a corporation may pass an extraordinary resolution to not appoint an auditor and to not have an audit in respect of the corporation's financial year if the corporation had annual revenue in that financial year of no more than \$100,000 or such other amount as may be prescribed by the regulations made under this Act.

Validity of resolution

(2) An extraordinary resolution passed under this section is valid until the next annual meeting of the members.

Non-application of this section

(3) This section does not apply to a corporation to which Part V applies.

Non-application of s. 96.1

(4) If this section applies to a corporation, section 96.1 does not apply to the corporation, despite subsection 133 (1).

Definition

(5) In this section,

"extraordinary resolution" means a resolution that is,

- (a) passed by at least 80 per cent of the votes cast at a general meeting of which notice specifying the intention to pass the resolution has been given, or
- (b) consented to in writing by each member of the corporation entitled to vote at a general meeting of the members or by the member's attorney.

(2) Section 130.1 of the Act, as enacted by subsection (1), is repealed.

39 Subsection 131 (1) of the Act is amended by striking out "Lieutenant Governor" in the portion before clause (a) and substituting "Minister".

40 Subsections 133 (2) and (2.2) of the Act are repealed.

41 Part IV (sections 134 to 139) of the Act is repealed.

42 Subsection 144 (2) of the Act is amended by striking out "Lieutenant Governor" and substituting "Minister".

43 Subsection 147 (2) of the Act is amended by striking out "Lieutenant Governor in Council" and substituting "Superintendent".

44 (1) Subsection 149 (10) of the Act is amended by striking out "shall produce to" in the portion before clause (a) and substituting "shall file with".

(2) Subsection 149 (11) of the Act is amended by striking out "be produced to" and substituting "be filed with".

45 (1) Subsection 153 (1) of the Act is amended by striking out "Lieutenant Governor in Council" and substituting "Minister".

(2) Subsection 153 (4) of the Act is amended by striking out "shall produce to" in the portion before clause (a) and substituting "shall file with".

46 (1) Subsection 154 (1) of the Act is amended by striking out "Lieutenant Governor" and substituting "Minister".

(2) Subsection 154 (5) of the Act is amended by striking out "shall produce to" in the portion before clause (a) and substituting "shall file with".

47 (1) Clause 161 (1) (a) of the Act is amended by striking out "sent by mail" at the beginning and substituting "given in writing".

(2) Clause 161 (7) (a) of the Act is amended by striking out "sent by mail" at the beginning and substituting "given in writing".

48 (1) Subsection 176 (1) of the Act is amended by striking out "Lieutenant Governor" and substituting "Minister".

(2) Subsection 176 (4) of the Act is repealed and the following substituted:

Other documents

(4) The application shall be accompanied by,

- (a) a copy certified by an officer of the fraternal society to be a true copy or any other type of copy permitted by the Director of the original membership book or list containing the signatures duly certified of at least 75 persons who thereby agree to become members of the fraternal society if and when incorporated;
- (b) a copy of the proposed by-laws of the fraternal society; and

(c) evidence that the approval of the Superintendent to the proposed by-laws and rules has been obtained.

49 Subsection 178 (1) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

50 Subsection 185 (1) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

51 Subsection 194 (1) of the Act is amended by striking out “or where there is filed in the office of the Minister” and substituting “or where there is filed with the Minister”.

52 Section 229 of the Act is repealed.

53 Subsection 231 (1) of the Act is amended by striking out “and be published in *The Ontario Gazette*”.

54 Subsection 266 (5) of the Act is repealed and the following substituted:

Copy of extension order to be filed

(5) The person on whose application the order was made shall file with the Minister, within 10 days after the order was made, a copy of the order certified under the seal of the court, a notarial copy of the certified copy or any other type of copy of the order permitted by the Director.

55 Subsection 267 (2) of the Act is repealed and the following substituted:

Copy of dissolution order to be filed

(2) The person on whose application the order was made shall file with the Minister, within 10 days after the order was made, a copy of the order certified under the seal of the court, a notarial copy of the certified copy or any other type of copy of the order permitted by the Director.

56 Section 272 of the Act is repealed.

57 (1) Subsection 283 (5) of the Act is amended by striking out “Subject to subsection (6)” at the beginning.

(2) Subsection 283 (6) of the Act is repealed.

58 (1) Subsection 286 (3) of the Act is amended by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding the following clause:

(d) is a corporation to which Part III applies but to which Part V does not apply.

(2) Subsection 286 (3) of the Act, as amended by subsection (1), is repealed and the following substituted:

Exception, insurers

(3) A corporation may, by by-law, provide that a person may, with his or her consent in writing, be a director of the corporation even though the person is not a shareholder or member of the corporation if the corporation is an insurer to which Part V applies, other than a pension fund or employees’ mutual benefit society.

59 (1) Section 288 of the Act is amended by adding the following subsection:

Application to court

(4) If a corporation to which Part III applies but to which Part V does not apply has neither directors nor members, the court may, on the application of an interested party, make an order appointing the required number of directors, as provided for in.

(a) the Act or other instrument of incorporation of the corporation (which, for greater certainty, would include an instrument amending that instrument); or

(b) a special resolution referred to in subsection 285 (1).

(2) Subsection 288 (4) of the Act, as enacted by subsection (1), is repealed.

60 Subsection 296 (2) of the Act is amended by striking out “by sending a copy thereof” and substituting “by sending it in writing”.

61 Subsection 304 (5) of the Act is repealed and the following substituted:

Rescission of orders made under former subs. (3)

(5) The Minister may, by order, upon the terms that the Minister sees fit, rescind any order made under subsection (3), as it read on February 28, 1999, or any order made under a predecessor of that subsection.

62 Subsection 311 (3) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

63 (1) Subsection 312 (1) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

(2) Subsection 312 (2) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

(3) Subsection 312 (3) of the Act is repealed and the following substituted:

Transfer of foreign corporations

(3) A corporation incorporated or continued under the laws of any jurisdiction other than Ontario may, if it appears to the Minister to be authorized by the laws of the jurisdiction in which it was incorporated or continued, apply to the Minister for letters patent continuing it as if it had been incorporated under this Act, and the Minister may issue the letters patent on application supported by the material that appears satisfactory and the letters patent may be issued on the terms and subject to the limitations and conditions and contain the provisions that appear to the Minister to be fit and proper.

64 (1) Subsection 313 (1) of the Act is amended by striking out “in Canada”.

(2) Subsection 313 (1) of the Act is amended by adding “or a company referred to in section 2.1” after “other than an insurance company”.

(3) Subsection 313 (1) of the Act, as amended by subsection (2), is amended by striking out “or a company referred to in section 2.1” after “other than an insurance company”.

(4) Section 313 of the Act is amended by adding the following subsection:

Limitation, rights preserved

(1.0.1) A corporation to which Part III applies but to which Part V does not apply shall not apply under subsection (1) for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of another jurisdiction, unless those laws provide in effect that,

- (a) the corporation's property continues as its property;
- (b) the corporation continues to be liable for its obligations;
- (c) an existing cause of action, claim or liability to prosecution is unaffected;
- (d) the corporation may continue to prosecute a civil, criminal or administrative action or proceeding being prosecuted by or against it; and
- (e) a conviction, ruling, order or judgment against the corporation may be enforced against it and a ruling, order or judgment in favour of the corporation may be enforced by it.

(5) Subsection 313 (1.0.1) of the Act, as enacted by subsection (4), is repealed.

(6) Subsection 313 (2) of the Act is repealed and the following substituted:

Notice

(2) A corporation that applies under subsection (1) or (1.1) shall file with the Minister a notice of the issue of the instrument of continuation and on and after the date of the filing of the instrument, this Act ceases to apply to the corporation.

Equivalent of filing

(3) If the proper officer of the other jurisdiction notifies the Minister that it has issued an instrument of continuation to a corporation that has applied under subsection (1) or (1.1), the Minister may, if the Minister is of the opinion that it is appropriate to do so and is satisfied that the corporation has satisfied the requirements of this section, notify the corporation that it is deemed to have complied with subsection (2).

65 Subsection 313.1 (2) of the Act is repealed.

66 (1) Subsection 315 (1) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

(2) Subsection 315 (3) of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

67 Section 316 of the Act is amended by striking out “Lieutenant Governor” in the portion after clause (b) and substituting “Minister”.

68 (1) Subsection 317 (1) of the Act is repealed and the following substituted:

Cancellation for sufficient cause

(1) If sufficient cause is shown to the Minister, despite the imposition of any other penalty for the same cause and in addition to any rights the Minister may have under this or any other Act, the Minister may, by order, after giving the corporation an opportunity to be heard and upon the terms and conditions that the Minister considers fit,

- (a) cancel the letters patent of a corporation and declare it to be dissolved on the date fixed in the order;
- (b) declare the corporate existence of a corporation incorporated otherwise than by letters patent to be terminated and the corporation to be dissolved on the date fixed in the order;
- (c) cancel any supplementary letters patent issued to a corporation and declare that the matter that became effective upon the issuance of the supplementary letters patent ceases to be in effect from the date fixed in the order;

- (d) cancel any letters patent of amalgamation or letters patent of continuation of a corporation and declare that the amalgamation or continuation ceases to be in effect from the date fixed in the order;
- (e) cancel an order reviving a corporation made under subsection (10) and declare that the revival order ceases to be in effect from the date fixed in the order made under this subsection;
- (f) cancel a dissolution order made under subsection 319 (2) and declare that the dissolution order ceases to be in effect from the date fixed in the order made under this subsection; or
- (g) cancel a termination order made under section 320 and declare that the termination order ceases to be in effect from the date fixed in the order made under this subsection.

(2) The French version of subsection 317 (6) of the Act is amended by striking out “de tout décret” and substituting “de tout arrêté”.

(3) Subsection 317 (9) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Dissolution order

(9) If it appears that a corporation is in default of a filing requirement under the *Corporations Information Act* and that notice of such default has been given in accordance with section 324 to the corporation or by publication under section 326.8, the Minister may by order, after 90 days after the notice has been given,

(4) Section 317 of the Act is amended by adding the following subsections:

Same

(10.1) The Minister may make an order revoking a dissolution order made under subsection (9) if,

- (a) there was no authority to make the dissolution order;
- (b) there was an error in respect of the dissolution order; or
- (c) the prescribed circumstances exist.

Effect of order under subs. (10.1)

(12.1) If an order is made under subsection (10.1),

- (a) the order is effective as of the date of the dissolution order; and
- (b) the corporation is deemed for all purposes never to have been dissolved, subject to the rights, if any, acquired by any person during the period of dissolution.

(5) Subsection 317 (14) of the Act is amended by adding “except a company referred to in section 2.1” after “or a predecessor of it” in the portion before clause (a).

(6) Subsection 317 (14) of the Act, as amended by subsection (5), is amended by striking out “except a company referred to in section 2.1” after “or a predecessor of it” in the portion before clause (a).

69 (1) Subsection 319 (1) of the Act is amended by striking out “Lieutenant Governor” in the portion before clause (a) and substituting “Minister”.

(2) Subsection 319 (2) of the Act is repealed and the following substituted:

Acceptance of surrender and dissolution of corporation

(2) The Minister, upon due compliance with this section, may by order accept the surrender of the charter and declare the corporation to be dissolved on such date as the order may fix.

(3) Subsection 319 (2.1) of the Act is amended by striking out “Lieutenant Governor” wherever that expression appears and substituting in each case “Minister”.

70 Section 320 of the Act is amended by striking out “Lieutenant Governor” and substituting “Minister”.

71 (1) Subsection 324 (3) of the Act is amended by striking out “the Lieutenant Governor or”.

(2) Subsection 324 (4) of the Act is repealed and the following substituted:

Same

(4) A notice or other document referred to in subsection (3) may be sent by telephonic or electronic means if there is a record that the notice or other document has been sent and, for greater certainty, the sending of a notice or other document by telephonic or electronic means does not require the consent of the intended recipient.

(3) Subsection 324 (5) of the Act is amended by striking out “Lieutenant Governor or” in the portion before clause (a).

(4) Clause 324 (6) (b) of the Act is amended by striking out “Lieutenant Governor or”.

72 (1) Subsection (2) applies only if subsection (5) does not come into force before the day this subsection comes into force.

(2) Section 326.1 of the Act is amended by adding the following subsection:

Same

(1.1) The Minister may make regulations prescribing an amount for the purposes of subsection 130.1 (1).

(3) Subsection (4) applies only if subsection (5) does not come into force before the day this subsection comes into force.

(4) Subsection 326.1 (1.1) of the Act, as enacted by subsection (2), is repealed.

(5) Section 326.1 of the Act is repealed and the following substituted:

Minister’s regulations and orders

Regulations

326.1 (1) The Minister may make regulations.

- (a) prescribing or governing anything described in this Act as prescribed or done by or in accordance with the regulations;
- (b) respecting and governing the content, form, format and filing of applications for letters patent or supplementary letters patent, other applications, documents and information filed with or issued by the Minister and the form, format and payment of fees;
- (c) respecting and governing the manner of completion, submission and acceptance of applications for letters patent or supplementary letters patent, other applications, documents and information filed with the Minister, the payment of fees and the determination of the date of receipt;
- (d) designating applications for letters patent or supplementary letters patent, other applications, documents and information to be filed with the Minister.
 - (i) in paper or electronic format,
 - (ii) in electronic format alone, or
 - (iii) in paper format alone;
- (e) subject to any terms and conditions specified in the regulation, prescribing and governing documents and information that are required to support applications for letters patent or supplementary letters patent, other applications and other forms approved under section 326.6 and specifying, for each of the formats designated under clause (d).
 - (i) the documents and information that must be filed with the Minister, together with applications for letters patent or supplementary letters patent, other applications and other forms approved under section 326.6, and
 - (ii) the documents and information that must be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, and subject to any terms and conditions imposed by the Director, that must be filed with the Minister or given to any other person specified in the notice;
- (f) permitting the Director, subject to any terms and conditions imposed by the Director, for each of the formats designated under clause (d).
 - (i) to require that a document or information prescribed under subclause (e) (i) be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Minister or given to any other person specified in the notice,
 - (ii) to require that a document or information prescribed under subclause (e) (ii) be filed with the Minister, together with applications for letters patent or supplementary letters patent, other applications and other forms approved under section 326.6, and
 - (iii) to require that a document required by this Act to be filed with the Minister be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Minister or given to any other person specified in the notice;
- (g) governing the terms and conditions that the Director may impose pursuant to a regulation made under subclause (e) (ii) or clause (f);

- (h) respecting and governing the issuance of letters patent, supplementary letters patent, orders, certificates, authorizations and other documents by the Minister, including rules respecting the issuance by electronic means;
- (i) governing the assignment of corporation numbers under section 326.5;
- (j) governing the retention and destruction of letters patent, supplementary letters patent, applications and other documents and information filed under this Act, including the form and format in which they must be retained;
- (k) prescribing duties and powers of the Director in addition to those set out in this Act;
- (l) designating public servants employed under Part III of the *Public Service of Ontario Act, 2006*, or classes of them, for the purposes of section 8 of this Act and for the purposes of issuing letters patent, supplementary letters patent, orders or certificates as to any fact or certifying true copies of documents required or authorized under this Act;
- (m) providing that a person or entity that enters into an agreement under subsection 2.3 (2) is an agent of the Crown and specifying the services and purposes for which the person or entity is considered to be an agent of the Crown;
- (n) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (o) prescribing any matter that the Minister considers necessary or advisable for the purposes of this Act;
- (p) providing for transitional matters that the Minister considers necessary or advisable in connection with the implementation of amendments to this Act enacted by Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017*.

Rolling incorporation by reference

- (2) A regulation made under subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

Fees

- (3) The Minister may, by order, require the payment of fees for the filing of letters patent, supplementary letters patent and other documents, search reports, copies of documents or information or other services under this Act, approve the amount of those fees and provide for the waiver or refund of all or any part of any those fees.

Non-application of *Legislation Act, 2006*

- (4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made by the Minister under subsection (3).

(6) Clause 326.1 (1) (p) of the Act, as enacted by subsection (5), is repealed.

73 The Act is amended by adding the following sections:

Methods of issuing

326.2 The Minister may issue letters patent, supplementary letters patent, authorizations, orders, certificates, certified copies and other documents by any method, and may use or issue validation codes or other systems or methods of validation in respect of the issuance.

Requirements established by Director

326.3 (1) The Director may establish requirements.

- (a) respecting and governing the content, form, format and filing of applications for letters patent or supplementary letters patent, other applications, documents and information filed with or issued by the Minister and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of applications for letters patent or supplementary letters patent, other applications, documents and information filed with the Minister, the payment of fees and the determination of the date of receipt;
- (c) specifying that applications for letters patent or supplementary letters patent, other applications, documents and information may be filed and fees may be paid only by a person authorized by the Director or who belongs to a class of persons authorized by the Director;
- (d) governing the authorization of persons described in clause (c), including,
 - (i) establishing conditions and requirements to be an authorized person,
 - (ii) imposing terms and conditions on an authorization, including terms and conditions governing the filing of applications, documents and information and the payment of fees, and
 - (iii) requiring any person who applies for an authorization to enter into an agreement with the Director or a person designated by the Director governing the filing of applications, documents and information;
- (e) specifying whether and which applications for letters patent or supplementary letters patent, other applications and forms approved under section 326.6 and supporting documents must be signed, specifying requirements respecting

their signing, and governing the form and format of signatures, including establishing rules respecting electronic signatures;

- (f) specifying and governing methods of executing applications for letters patent or supplementary letters patent and other applications and forms approved under section 326.6 and supporting documents, other than by signing them, and establishing rules respecting those methods;
- (g) specifying requirements for corporations filing letters patent, supplementary letters patent, other applications and forms approved under section 326.6 electronically to keep a properly executed version of them at the head office in paper or electronic format and, if required by notice from the Director, to provide a copy of the executed version to the Minister within the time period set out in the notice;
- (h) establishing the time and circumstances when applications for letters patent or supplementary letters patent, other applications, documents and information are considered to be sent to or received by the Minister, and the place where they are considered to have been sent or received;
- (i) establishing technology standards and requirements for filing applications for letters patent or supplementary letters patent and other applications, documents and information in electronic format with the Minister and for paying fees in electronic format;
- (j) specifying a type of copy of a court order or other document issued by the court that may be filed with the Minister;
- (k) specifying a type of copy of a document required under this Act to be filed with the Minister that may be filed in place of the types of copies permitted to be filed under this Act;
- (l) respecting and governing the issuance of letters patent, supplementary letters patent, orders, certificates, authorizations and other documents by the Minister, including rules respecting the issuance by electronic means;
- (m) governing the assignment of corporation numbers under section 326.5;
- (n) governing searches and search methods of records for the purpose of section 6.1.

Classes

- (2) For the purposes of clause (1) (c), a class may be defined.
 - (a) in terms of any attribute or combination of attributes; or
 - (b) as consisting of, including or excluding a specified member.

Non-application of *Legislation Act, 2006*

- (3) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

Conflict

- (4) If there is a conflict between a requirement established under this section and a regulation made under this Act, the regulation prevails to the extent of the conflict.

Accepting copy of notice or other document

326.4 (1) If a notice or other document is required to be sent to the Minister under this Act, the Minister may accept a copy of it, including an electronic copy.

Exception

- (2) Unless otherwise provided in the regulations, subsection (1) does not apply to applications for letters patent or supplementary letters patent or other applications filed in paper format.

Corporation number

326.5 (1) Every corporation shall be assigned a number by the Director and the number shall be specified as the corporation number in the letters patent, supplementary letters patent and in any other document relating to the corporation issued by the Minister.

Same

- (2) If, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number that is the same as the corporation number of any other corporation previously assigned, the Director may, without holding a hearing, change the corporation number assigned to the corporation and any letters patent, supplementary letters patent or orders subsequently issued under this Act must bear its new corporation number.

Reissue of letters patent of incorporation or amalgamation

(3) If a new corporation number is assigned to a corporation under subsection (2), the Director may reissue the letters patent of incorporation or amalgamation, whichever was most recently issued to the corporation, and the reissued letters patent must bear the new corporation number.

Same

(4) If, for any reason, letters patent, supplementary letters patent or any other document has been issued that sets out the corporation number incorrectly, the Director may, without holding a hearing, substitute a corrected letters patent, supplementary letters patent or other document that bears the date of the letters patent, supplementary letters patent or other document that it replaces.

Assignment of corporation numbers to existing corporations

(5) The Director may assign a corporation number to a corporation that has not already been assigned a corporation number if the Director is of the opinion that it is appropriate to do so.

Forms

326.6 (1) The Director may require that forms approved by the Director be used for any purpose under this Act.

Non-application of *Legislation Act, 2006*

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

Refusal to issue letters patent, etc. if corporation in default

326.7 Despite any provision of this Act permitting the Minister to issue letters patent, supplementary letters patent or an order, the Minister may refuse to do so if a corporation is in default of a filing requirement under the *Corporations Information Act* or of a registration requirement under the *Business Names Act* or has any unpaid fees or penalties outstanding under this Act, the *Corporations Information Act* or the *Business Names Act*.

Documents may be publicly available

326.8 The Minister may publish or otherwise make available to the public.

- (a) any notices or other documents sent by the Minister under this Act; and
- (b) any documents required by this Act, the regulations or the Director to be sent to the Minister under this Act.

74 The French version of section 328 of the Act is amended by striking out “ni pris de décret” and substituting “ni pris d’arrêté”.

75 Subsections 82 (2) and (3) of Schedule E to the *Red Tape Reduction Act, 1998* are repealed.

RELATED AMENDMENTS***Agricultural Research Institute of Ontario Act***

76 (1) Section 2 of the *Agricultural Research Institute of Ontario Act* is amended by adding the following subsection:

Corporations Act does not apply

(1.1) The *Corporations Act* does not apply to the Research Institute.

(2) Subsection 2 (1.1) of the Act, as enacted by subsection (1), is repealed.

Child Care and Early Years Act, 2014

77 Subsection 57 (2) of the *Child Care and Early Years Act, 2014* is repealed and the following substituted:

Natural person powers

(2) For greater certainty, a service system manager may exercise the capacity, rights, powers and privileges of a natural person conferred on it by the following provisions, for the purposes of this Act:

- 1. If the service system manager is a municipality, section 9 of the *Municipal Act, 2001* or section 7 of the *City of Toronto Act, 2006*.
- 2. If the service system manager is a district social services administration board, section 126.1 of the *Corporations Act*.

Housing Services Act, 2011

78 (1) Subsection 13 (2) of the *Housing Services Act, 2011* is repealed and the following substituted:

Natural person powers

(2) For greater certainty, a service manager may exercise the capacity, rights, powers and privileges of a natural person conferred on it by the following provisions, for the purposes of this Act:

1. If the service manager is a municipal service manager, section 9 of the *Municipal Act, 2001* or section 7 of the *City of Toronto Act, 2006*.
2. If the service manager is a dssab service manager, section 126.1 of the *Corporations Act*.

(2) Subsection 15 (1) of the Act is repealed and the following substituted:

Clarification on powers – dssab service manager

(1) Subsection 4 (1) of the *District Social Services Administration Boards Act* does not limit a dssab service manager from exercising its powers under this Act or the capacity, rights, powers and privileges of a natural person under section 126.1 of the *Corporations Act* throughout its service area for the purposes of this Act.

Law Society Act

79 Subsection 6 (1) of the *Law Society Act* is amended by striking out “Section 84” at the beginning and substituting “Sections 84 and 126.1”.

Métis Nation of Ontario Secretariat Act, 2015

80 Paragraph 1 of subsection 13 (7) of the *Métis Nation of Ontario Secretariat Act, 2015* is repealed.

Ontario Educational Communications Authority Act

81 Subsection 6 (4) of the *Ontario Educational Communications Authority Act* is repealed and the following substituted:

Application of Corporations Act

(4) Section 126.1 of the *Corporations Act* does not apply to the Authority.

Same

(4.1) Clauses 23 (1) (a), (b), (d), (e), (g), (h), (j), (k), (m), (p), (q), (r), (t), (u) and (v) and sections 274 and 275 of the *Corporations Act* do not apply to the Authority unless the approval of the Lieutenant Governor in Council is obtained.

Ontario Food Terminal Act

82 (1) Section 4 of the *Ontario Food Terminal Act* is amended by adding the following subsection:

Application of Corporations Act

(4) Except as set out in subsection (3), the *Corporations Act* does not apply to the Board.

(2) Subsection 4 (4) of the Act, as enacted by subsection (1), is repealed.

Ontario French-language Educational Communications Authority Act, 2008

83 Subsection 6 (4) of the *Ontario French-language Educational Communications Authority Act, 2008* is repealed and the following substituted:

Application of Corporations Act

(4) Section 126.1 of the *Corporations Act* does not apply to the Authority.

Same

(4.1) Clauses 23 (1) (a), (b), (d), (e), (g), (h), (j), (k), (m), (p), (q), (r), (t), (u) and (v) and sections 274 and 275 of the *Corporations Act* do not apply to the Authority unless the approval of the Lieutenant Governor in Council is obtained.

Ontario Northland Transportation Commission Act

84 (1) The *Ontario Northland Transportation Commission Act* is amended by adding the following section:

Corporations Act does not apply

2.1 The *Corporations Act* does not apply to the Commission.

(2) Section 2.1 of the Act, as enacted by subsection (1), is repealed.

COMMENCEMENT

Commencement

85 (1) Subject to subsections (2) to (6), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Subsections 3 (2), 4 (2), 64 (3) and 68 (6) come into force on the 25th anniversary of the day subsection 3 (1) comes into force.

(3) Sections 13 and 23, subsections 28 (1), 31 (1), 35 (1) and 37 (1), section 47, subsections 58 (1) and 59 (1), section 60, subsections 64 (1) and 68 (2), sections 74 and 75, subsections 76 (1), 82 (1) and 84 (1) come into force on the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(4) Subsections 33 (1), 34 (1), 36 (1), 38 (1), 64 (4) and 72 (1) and (2), sections 77 to 81 and 83 come into force on the 60th day after the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(5) Subsections 28 (2), 31 (2), 33 (2), 34 (2), 35 (2), 36 (2), 37 (2), 38 (2), 59 (2), 64 (5), 72 (3) and (4), 76 (2), 82 (2) and 84 (2) come into force on the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force.

(6) Subsection 72 (6) comes into force on the third anniversary of the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

SCHEDULE 8
MINISTRY OF GOVERNMENT AND CONSUMER SERVICES —
NOT-FOR-PROFIT CORPORATIONS ACT, 2010 AND CONSEQUENTIAL AMENDMENTS

NOT-FOR-PROFIT CORPORATIONS ACT, 2010

1 (1) The definition of “articles” in subsection 1 (1) of the *Not-for-Profit Corporations Act, 2010* is repealed and the following substituted:

“articles” means any instrument that incorporates a corporation or modifies its incorporating instrument, including articles of incorporation, restated articles of incorporation, articles of amendment, articles of amalgamation, articles of arrangement, articles of continuance, articles of dissolution, articles of reorganization, articles of revival, letters patent, supplementary letters patent or a special Act; (“statuts”)

(2) The definition of “associate” in subsection 1 (1) of the Act is repealed.

(3) Subsection 1 (1) of the Act is amended by adding the following definitions:

“electronic signature” means an identifying mark or process that is,

- (a) created or communicated using telephonic or electronic means,
- (b) attached to or associated with a document or other information, and
- (c) made or adopted by a person to associate the person with the document or other information, as the case may be; (“signature électronique”)

“endorse” includes,

- (a) imprinting a stamp on the face of articles or other document sent to the Director, and
- (b) electronically producing an equivalent to a stamp in respect of articles or other documents sent to the Director; (“produire”)

(4) The definition of “incorporator” in subsection 1 (1) of the Act is repealed and the following substituted:

“incorporator” means a person who signs or otherwise authorizes articles of incorporation; (“fondateur”)

(5) The definition of “Minister” in subsection 1 (1) of the Act is repealed and the following substituted:

“Minister” means the member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

(6) Clause (b) of the definition of “public benefit corporation” in subsection 1 (1) of the Act is amended by striking out “\$10,000” in the portion before subclause (i) and substituting “\$10,000 or other prescribed amount”.

(7) The definition of “related person” in subsection 1 (1) of the Act is repealed.

(8) The definition of “telephonic or electronic means” in subsection 1 (1) of the Act is repealed and the following substituted:

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, automated touch-tone telephone system, computer or computer networks; (“moyen de communication téléphonique ou électronique”)

(9) Section 1 of the Act is amended by adding the following subsection:

Predecessor Act

(3) In this or any other Act, a reference to a predecessor of the *Not-for-Profit Corporations Act, 2010* is a reference to the *Corporations Act*, and any predecessor of the *Corporations Act*, as they applied to a body corporate without share capital that was not governed by Part V of the *Corporations Act* or any predecessor of Part V of the *Corporations Act*.

2 (1) Section 4 of the Act is amended by adding the following subsection:

Same, corporations sole

(1.1) This Act does not apply, except as is prescribed, to,

- (a) a body corporate incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada as a corporation sole;
- (b) a body corporate incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its registered office and carries on its activities in Ontario and that was incorporated with purposes that are within the legislative authority of the Province of Ontario as a corporation sole; or

(c) a body corporate incorporated by or under a general or special Act of the Legislature as a corporation sole.

(2) Subsection 4 (2) of the Act is repealed and the following substituted:

Non-application

(2) This Act does not apply to.

(a) a body corporate without share capital to which the *Co-operative Corporations Act* or Part V of the *Corporations Act* applies; or

(b) a body corporate incorporated for the construction and working of a railway, an incline railway or a street railway.

3 The Act is amended by adding the following section:

Execution of documents

4.1 Any articles, notice, resolution, requisition, statement or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form, each of which is executed by one or more persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, are deemed to constitute one document for the purposes of this Act.

4 Section 5 of the Act is repealed and the following substituted:

Conflict with other law

5 (1) If there is a conflict between a provision that applies to a body corporate without share capital in this Act or in a regulation and a provision that applies to the body corporate in any other Act or in a regulation made under it, the provision in the other Act or regulation prevails.

Charities law prevails

(2) If a provision in this Act or in a regulation that applies to a charitable corporation conflicts with a law relating to charities, the law relating to charities prevails, regardless of whether it is a provision in another Act, a regulation made under it or a rule or principle of common law or equity.

Inconsistent with intent or purpose

(3) A provision in this Act or in a regulation does not apply to a body corporate without share capital to the extent that it is inconsistent with the intent or purpose of another Act or a regulation made under it that applies to the body corporate without share capital.

5 Section 6 of the Act is repealed and the following substituted:

Appointment of Director

6 The Minister shall appoint a Director to carry out the duties and exercise the powers of the Director under this Act.

6 Subsection 7 (1) of the Act is repealed and the following substituted:

Articles of incorporation

(1) One or more individuals or bodies corporate, or any combination of them, may incorporate a corporation by filing articles of incorporation and any other required documents and information with the Director.

7 Subsection 8 (5) of the Act is amended by adding “that were endorsed under this Act” after “a provision in a corporation’s articles”.

8 Subsection 9 (1) of the Act is repealed and the following substituted:

Certificate of incorporation

(1) Upon receipt of the articles of incorporation, together with any required documents and information and the required fee, the Director shall issue a certificate of incorporation by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of incorporation.

9 (1) The French version of subsection 10 (1) of the Act is amended by striking out “qui est estampille ou délivré par le directeur” at the end and substituting “qui est produit ou délivré par le directeur”.

(2) Subsection 10 (2) of the Act is repealed and the following substituted:

Changing corporation number

(2) If through inadvertence or otherwise the Director has assigned to a corporation a corporation number that is the same as the corporation number of any other corporation previously assigned, the Director may, without holding a hearing, change the corporation number assigned to the corporation, and any certificate subsequently endorsed for the corporation under this Act must bear its new corporation number.

Reissue of certificate of incorporation or amalgamation

(2.1) If a new corporation number is assigned to a corporation under subsection (2), the Director may reissue the certificate of incorporation or certificate of amalgamation, whichever was most recently issued to the corporation, and the reissued certificate must bear the new corporation number.

(3) Section 10 of the Act is amended by adding the following subsection:**Assignment of corporation numbers to bodies corporate**

(4) The Director may assign a corporation number to a body corporate that has not already been assigned a corporation number if the Director is of the opinion that it is appropriate to do so.

10 (1) Subsection 16 (2) of the Act is repealed and the following substituted:**Restricted activities and powers**

(2) A corporation shall not carry on any activity or exercise any power that it is restricted by its articles from carrying on or exercising, nor shall the corporation exercise any of its powers in a manner contrary to its articles.

(2) The English version of subsection 16 (3) of the Act is amended by striking “that the act or transfer” and substituting “that the act”.

11 Subsection 17 (1) of the Act is amended by striking out “clause 103 (1) (g), (j) or (l)” at the end and substituting “clause 103 (1) (g), (k) or (l)”.

12 (1) Subsection 18 (1) of the Act is amended by striking out “Director” at the end and substituting “Ministry”.

(2) Subsection 18 (2) of the Act is repealed and the following substituted:

Where available

(2) The Ministry shall approve standard organizational by-laws and shall make them publicly available on a website designated by the Ministry, or as prescribed.

13 Subsection 24 (8) of the Act is amended by striking out “unless the individual consented to hold office as a director” and substituting “unless the individual consents in writing to hold office as a director”.

14 Subsection 30 (2) of the Act is amended by striking out “the articles are amended accordingly” and substituting “the articles are deemed to be amended”.

15 Subsection 34 (2) of the Act is amended by striking out “or of the minimum number of directors” and substituting “or the minimum number of directors”.

16 Subsection 64 (1) of the Act is repealed and the following substituted:

Proxies

(1) Subject to subsection (1.1), every member entitled to vote at a meeting of the members may by means of a proxy appoint a proxyholder or one or more alternate proxyholders as the member’s nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy.

Limitation

(1.1) A member may appoint a proxyholder only if the articles or by-laws of the corporation permit it.

Who may be proxyholder

(1.2) A proxyholder need not be a member of the corporation unless so required by the articles or by-laws of the corporation.

17 Section 65 of the Act is repealed.

18 Subsection 73 (1) of the Act is amended by striking out “or the Director”.

19 Subsection 84 (2) of the Act is amended by striking out “Not less than 21 days before each annual meeting of the members” at the beginning and substituting “Not less than 21 days, or a prescribed number of days, before each annual meeting of the members”.

20 (1) Subsection 97 (1) of the Act is repealed and the following substituted:

Consents of directors to be kept

(1) A corporation shall keep at its registered office,

(a) the consents to act as a director, in the approved form,

(i) of each individual who is named in the articles as a first director and who is not an incorporator, and

(ii) of each individual who is named in the articles as a first director and who is an incorporator, if the articles are filed with the Director in an electronic format and the consent is required by the regulations; and

(b) the consents to act as a director of each individual who is elected or appointed a director of the corporation.

(2) Section 97 of the Act is amended by adding the following subsection:

Director may require copy of consent

(3) The Director may, at any time by notice, require that a copy of a consent kept under subsection (1) be provided to the Director within the time period set out in the notice.

21 (1) Clause 103 (1) (b) of the Act is repealed and the following substituted:

(b) add, remove or change any restriction upon the activity or activities that the corporation may carry on or upon the powers that the corporation may exercise:

(2) Subsection 103 (3) of the Act is repealed and the following substituted:

Limitation

(3) This section does not apply to a corporation incorporated by a special Act, except that such a corporation may amend its articles to change its name.

(3) Subsection 103 (4) of the Act is amended by striking out “by articles of amendment” in the portion before clause (a).

22 Section 106 of the Act is repealed and the following substituted:

Articles of amendment to be sent to Director

106 Subject to a revocation under subsection 103 (2), after an amendment to the articles has been adopted under section 103, the corporation shall file articles of amendment and any required documents and information with the Director.

23 Section 107 of the Act is repealed and the following substituted:

Certificate of amendment

107 Upon receipt of the articles of amendment, together with any required documents and information and the required fee, the Director shall issue a certificate of amendment by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of amendment.

24 (1) Subsections 109 (1), (2) and (3) of the Act are repealed and the following substituted:

Restated articles

(1) The directors may, at any time, restate the articles of incorporation as amended and shall do so when directed by the Director.

Filing with Director

(2) The corporation shall file its restated articles of incorporation and any required documents and information with the Director.

Restated certificate

(3) Upon receipt of the restated articles of incorporation, together with any required documents and information and the required fee, the Director shall issue a restated certificate of incorporation by endorsing the articles in accordance with section 201, and the endorsed articles constitute the restated certificate of incorporation.

(2) Section 109 of the Act is amended by adding the following subsection:

Exception

(5) This section does not apply to a corporation incorporated by special Act.

25 Section 110 of the Act is amended by adding the following subsection:

Exception

(4) This section does not apply to a corporation incorporated by special Act.

26 (1) Subsection 112 (1) of the Act is repealed and the following substituted:

Articles of amalgamation

(1) Subject to subsection 111 (6), after an amalgamation agreement has been adopted under section 111, articles of amalgamation and any required documents and information shall be filed with the Director.

(2) Subsection 112 (2) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Attached statements

(2) The articles of amalgamation must have attached to them a statement of a director or an officer of each amalgamating corporation stating that,

(3) Subsection 112 (4) of the Act is repealed and the following substituted:**Certificate of amalgamation**

(4) Upon receipt of articles of amalgamation, together with the statements required by subsection (2), any other required documents and information and the required fee, the Director shall issue a certificate of amalgamation by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of amalgamation.

27 (1) Subsections 114 (4) and (5) of the Act are repealed and the following substituted:**Articles of continuance**

(4) If a body corporate wishes to apply for a certificate under subsection (1), the body corporate shall file articles of continuance and any required documents and information with the Director.

Certificate of continuance

(5) Upon receipt of articles of continuance, together with any required documents and information and the required fee, the Director may, on the terms and subject to the limitations and conditions that the Director considers fit, issue a certificate of continuance by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of continuance.

(2) Subsection 114 (7) of the Act is repealed and the following substituted:**Notification of continuance**

(7) The Director may notify the appropriate official or public body in the jurisdiction in which continuance under this Act is authorized that a certificate of continuance has been issued.

28 (1) Section 115 of the Act is repealed and the following substituted:**Continuance of other Ontario bodies corporate**

115 (1) In this section,

“charter” includes,

- (a) the text of an Act of incorporation and of any amendments to that Act, and
- (b) any letters patent, supplementary letters patent, certificate of incorporation and certificate of amendment issued under an Act other than this Act or a predecessor of this Act; (“charte”)

“special resolution” has the same meaning as in subsection 1 (1), except references in the definition to a corporation shall be read as references to a body corporate and, when applied to a body corporate with share capital, references in the definition to a member or members of a corporation shall be read as references to a shareholder or shareholders of the body corporate. (“résolution extraordinaire”)

Special resolution

(2) The shareholders or members of a body corporate incorporated or continued by or under an Act other than this Act or a predecessor of this Act who are entitled to vote at annual meetings of shareholders or members may, by special resolution, authorize the directors of the body corporate to apply to the Director for a certificate of continuance under this Act.

Amendment of charter

(3) A resolution referred to in subsection (2) must also,

- (a) if the body corporate has authorized share capital provisions and related provisions set out in its charter, provide for the deletion of those provisions; and
- (b) if the body corporate has issued shares, provide for the cancellation of all those shares upon the issuance of a certificate of continuance under subsection (9).

Same, permissive provision

(4) A resolution referred to in subsection (2) may also make any amendment to the charter of the body corporate that a corporation incorporated under this Act may make to its articles.

Change of class or group rights, body corporate without share capital

(5) Despite subsection (4), the members of a body corporate without share capital may not, by a resolution referred to in subsection (2), make any amendment of the nature referred to in subsection 105 (1) that affects a class or group of members, unless,

- (a) the charter of the body corporate or the Act which governs the body corporate, if that Act is different from its charter, provides otherwise in respect of an amendment of the nature referred to in clause 105 (1) (a) or (e); or
- (b) the members of the class or group approve the amendment in accordance with section 105.

Additional authorization, body corporate with share capital

(6) In the case of a body corporate with share capital, a resolution referred to in subsection (2) must also be authorized,

- (a) in accordance with any applicable requirements of the Act which governs the body corporate; or
- (b) if there are no applicable requirements in the Act which governs the body corporate, unanimously by shareholders entitled to vote, instead of being approved by at least two-thirds of the votes cast at a special meeting.

Corporation must be able to pay liabilities

(7) Despite subsection (2) and clause 2.1 (1) (a) of the *Corporations Act*, the shareholders of a body corporate with share capital may not authorize the body corporate to apply to the Director for a certificate of continuance under this Act if, upon continuance, the body corporate will be unable to pay its liabilities as they become due.

Articles of continuance

(8) If a body corporate wishes to apply for a certificate under subsection (2), the body corporate shall file articles of continuance and any required documents and information with the Director.

Certificate of continuance

(9) Upon receipt of articles of continuance, together with any required documents and information and the required fee, the Director may, on the terms and subject to the limitations and conditions that the Director considers fit, issue a certificate of continuance by endorsing the articles of continuance in accordance with section 201, and the endorsed articles constitute the certificate of continuance.

Rights preserved

(10) From the date of continuance of a body corporate as a corporation under this Act,

- (a) the property of the body corporate continues to be the property of the corporation;
- (b) the corporation continues to be liable for the obligations of the body corporate;
- (c) an existing cause of action, claim or liability to prosecution is unaffected;
- (d) any civil, criminal, administrative, investigative or other action or proceeding pending by or against the body corporate may be continued by or against the corporation; and
- (e) any conviction against, or ruling, order or judgment in favour of or against the body corporate may be enforced by or against the corporation.

(2) Subsection 115 (7) of the Act, as re-enacted by subsection (1), is amended by striking out “and clause 2.1 (1) (a) of the *Corporations Act*”.

29 (1) Subsections 116 (4) and (5) of the Act are repealed and the following substituted:

Filing application with Director

(4) If the members approve of the continuance by special resolution, the corporation may file with the Director its application for authorization of the continuance and any required documents and information.

Director's authorization

(5) Upon receipt of the application, together with any required documents and information and the required fee, the Director may endorse an authorization in respect of the application if the Director is satisfied that the application is not prohibited by subsection (10) in accordance with any applicable regulations and Director's requirements, and the endorsed application constitutes the Director's authorization of the application for continuance.

(2) The French version of subsection 116 (6) of the Act is amended by striking out “la date de l'apposition d'une estampille sur la demande” and substituting “la date de l'inscription produite à l'égard de la demande”.

(3) Section 116 of the Act is amended by adding the following subsection:

Equivalent of filing

(7.1) If the appropriate official or public body of the other jurisdiction notifies the Director that it has issued an instrument of continuance to the corporation, the Director may, if the Director is of the opinion that it is appropriate to do so and is satisfied that the corporation has satisfied the requirements of this section, notify the corporation that it is deemed to have complied with subsection (7).

30 (1) Subsection 117 (1) of the Act is amended by adding “or a predecessor of this Act, other than a charitable corporation” after “incorporated under this Act”.

(2) Subsections 117 (2) and (3) of the Act are repealed and the following substituted:

Filing application with Director

(2) If a corporation wishes to apply for the Director’s authorization to be continued under subsection (1), the corporation shall file the application and any required documents and information with the Director.

Director’s authorization

(3) Upon receipt of the application, together with any required documents and information and the required fee, the Director may endorse an authorization in respect of the application in accordance with any applicable regulations and Director’s requirements. The endorsed application constitutes the Director’s authorization of the application for continuance.

(3) The French version of subsection 117 (4) of the Act is amended by striking out “la date de l’apposition d’une estampille sur la demande” and substituting “la date de l’inscription produite à l’égard de la demande”.

31 (1) Subsections 119 (4) and (5) of the Act are repealed and the following substituted:

Articles of reorganization

(4) After an order referred to in subsection (1) has been made, the corporation shall file articles of reorganization and any required documents and information with the Director.

Certificate of amendment

(5) Upon receipt of articles of reorganization, together with any required documents and information and the required fee, the Director shall issue a certificate of amendment by endorsing the articles of reorganization in accordance with section 201, and the articles of incorporation are amended accordingly, and the endorsed articles constitute the certificate of amendment.

(2) Section 119 of the Act is amended by adding the following subsection:

Exception

(7) This section does not apply to a corporation incorporated by special Act.

32 (1) Section 120 of the Act is amended by adding the following subsection:

Same

(4.1) A corporation that applies to the court under subsection (4) shall give the Director notice of the application, and the Director is entitled to appear before the court and be heard in person or by counsel.

(2) Subsections 120 (6), (7) and (8) of the Act are repealed and the following substituted:

Articles of arrangement

(6) After an order referred to in clause (5) (d) has been made, the corporation shall file articles of arrangement and any required documents and information with the Director.

Certificate of arrangement

(7) Upon receipt of articles of arrangement, together with any required documents and information and the required fee, the Director shall issue a certificate of arrangement by endorsing the articles of arrangement in accordance with section 201, and the endorsed articles constitute the certificate of arrangement.

Effective date of articles of arrangement

(8) Articles of arrangement are effective on the date shown in the certificate of arrangement.

Exception

(9) This section does not apply to a corporation incorporated by special Act.

33 Subsection 123 (4) of the Act is repealed and the following substituted:

Publication of notice

(4) A corporation shall file notice in the approved form of a resolution requiring the voluntary winding up of the corporation with the Director within 10 days after the resolution has been passed.

34 (1) Subsection 134 (2) of the Act is amended by striking out “and shall forthwith publish the notice in *The Ontario Gazette*” at the end.

(2) Subsection 134 (6) of the Act is repealed and the following substituted:

Copy of extension order to be filed

(6) The person on whose application an order was made under subsection (4) or (5) shall file with the Director, within 10 days after the order was made, a certified copy of the order, a notarial copy of the certified copy or any other type of copy of the order permitted by the Director.

35 Subsection 139 (4) of the Act is amended by striking out “and shall publish the notice in *The Ontario Gazette* within 20 days after being appointed” at the end.

36 Subsection 147 (2) of the Act is repealed and the following substituted:

Copy of dissolution order to be filed

(2) The person on whose application the order was made shall file with the Director, within 10 days after the order was made, a certified copy of the order, a notarial copy of the certified copy or any other type of copy of the order permitted by the Director.

37 (1) Sub-subclauses 150 (1) (b) (i) (A) and (B) of the Act are repealed and the following substituted:

- (A) if it is a charitable corporation, to a Canadian body corporate that is a registered charity under the *Income Tax Act* (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada,
- (B) if it is a non-charitable corporation, to another public benefit corporation with similar purposes to its own, a Canadian body corporate that is a registered charity under the *Income Tax Act* (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada, or

(2) Section 150 of the Act is amended by adding the following subsection:

Deemed distribution in accordance with Act

(1.1) If the remaining property of a corporation that is not a public benefit corporation is distributed on winding up in accordance with a by-law described in paragraph 5 of subsection 207 (3), the property is deemed to have been distributed in accordance with the corporation's articles for the purposes of sub-subclause (1) (b) (ii) (A).

38 (1) Sub-subclauses 167 (1) (d) (i) (A) and (B) of the Act are repealed and the following substituted:

- (A) if it is a charitable corporation, to a Canadian body corporate that is a registered charity under the *Income Tax Act* (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada,
- (B) if it is a non-charitable corporation, to another public benefit corporation with similar purposes to its own, a Canadian body corporate that is a registered charity under the *Income Tax Act* (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada, or

(2) Section 167 of the Act is amended by adding the following subsections:

Deemed amendment of articles, charitable corporations

(5.1) If, on the day this section comes into force, a charitable corporation does not have a valid provision in its articles respecting the distribution of the corporation's remaining property on dissolution that is in conformity with sub-subclause (1) (d) (i) (A), the corporation is deemed, on that day, to have filed articles of amendment adding such a provision to its articles.

Same, public benefit non-charitable corporations

(5.2) If, on the day that a non-charitable corporation that is a public benefit corporation for the purposes of this section files articles of dissolution, the corporation does not have a valid provision in its articles respecting the distribution of the corporation's remaining property on dissolution that is in conformity with sub-subclause (1) (d) (i) (B), the corporation is deemed, on that day, to have filed articles of amendment adding such a provision to its articles.

Deemed distribution in accordance with Act

(5.3) If the remaining property of a corporation that is not a public benefit corporation is distributed on dissolution in accordance with a by-law described in paragraph 5 of subsection 207 (3), the property is deemed to have been distributed in accordance with the corporation's articles for the purposes of sub-subclause (1) (d) (ii) (A).

39 Section 168 of the Act is repealed and the following substituted:

Certificate of dissolution

168 (1) Upon receipt of the articles of dissolution, together with any required documents and information and the required fee, the Director shall issue a certificate of dissolution by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of dissolution.

Exception, registered owner of land

(2) Despite subsection (1), the Director may refuse to endorse the articles of dissolution if the Director learns that the corporation is a registered owner of land in Ontario.

40 Section 169 of the Act is repealed and the following substituted:**Cancellation of certificate, etc., by Director**

169 (1) If sufficient cause is shown to the Director, the Director may, after giving the corporation an opportunity to be heard, make an order upon the terms and conditions that the Director thinks fit cancelling the corporation's certificate of incorporation, any other certificate issued to the corporation under this Act or a predecessor of this Act, its letters patent, supplementary letters patent, any other instrument by which the corporation was incorporated under a predecessor of this Act, or any amendments to such instrument, or an order issued under a predecessor of this Act accepting the surrender of its charter, accepting its application for termination of existence or reviving the corporation.

Same

(2) The Director may make an order under subsection (1) despite the imposition of any other penalty for the same cause and in addition to any rights the Director may have under this or any other Act.

Written hearing

(3) A hearing referred to in subsection (1) shall be in writing in accordance with the rules made by the Director under the *Statutory Powers Procedure Act*.

Date of dissolution

(4) In the case of the cancellation, under subsection (1), of a certificate of incorporation, letters patent or other instrument by which the corporation was incorporated under a predecessor of this Act, the corporation is dissolved on the date fixed in the order made under this section.

Effective date

(5) In the case of the cancellation, under subsection (1), of any other certificate, supplementary letters patent, amendments to the instrument by which the corporation was incorporated under a predecessor of this Act or any order, the matter that became effective upon the issuance of the certificate, supplementary letters patent, amendment or order ceases to be in effect from the date fixed in the order made under this section.

41 (1) Subsection 170 (1) of the Act is amended by striking out "or by publication once in *The Ontario Gazette*" and substituting "in accordance with section 197 or by publication in accordance with the regulations".

(2) Section 170 of the Act is amended by adding the following subsections:

Same

(2.0.1) The Director may make an order revoking a dissolution order made under subsection (2) if,

- (a) there was no authority to make the dissolution order;
- (b) there was an error in respect of the dissolution order; or
- (c) the prescribed circumstances exist.

Effect of order under subs. (2.0.1)

(2.3.1) If an order is made under subsection (2.0.1),

- (a) the order is effective as of the date of the dissolution order; and
- (b) the corporation is deemed for all purposes never to have been dissolved, subject to the rights, if any, acquired by any person during the period of dissolution.

(3) Subsections 170 (5) and (6) of the Act are repealed and the following substituted:

Certificate of revival

(5) Upon receipt of articles of revival, together with any required documents and information and the required fee, the Director shall, subject to subsection (3), issue a certificate of revival by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of revival.

Definition

(6) In this section,

“interested person” includes a director, officer and member of the corporation.

42 The Act is amended by adding the following section:**Refusal to endorse if corporation in default**

188.1 Despite any provision of this Act requiring the Director to endorse a certificate or an authorization, the Director may refuse to do so if a corporation is in default of a filing requirement under the *Corporations Information Act* or of a registration requirement under the *Business Names Act* or has any unpaid fees or penalties outstanding under this Act, the *Corporations Information Act* or the *Business Names Act*.

43 The French version of paragraph 1 of subsection 190 (1) of the Act is repealed and the following substituted:

- 1 Refuser de délivrer un certificat en produisant une inscription à l'égard des statuts ou d'un autre document dont la présente loi exige le dépôt auprès du directeur.

44 Section 197 of the Act is amended by adding the following subsections:**Notice, etc., sent by Director**

(2) A notice or other document that is required or permitted by this Act or the regulations to be sent by the Director may be sent by ordinary mail or by any other method, including registered mail, certified mail or prepaid courier, to an address referred to in this section or section 196 if there is a record that the notice or document has been sent.

Same

(3) A notice or other document referred to in subsection (2) may be sent by any telephonic or electronic means if there is a record that the notice or other document has been sent and, for greater certainty, the sending of a notice or other document by telephonic or electronic means does not require the consent of the intended recipient.

Deemed receipt

(4) A notice or other document sent by the Director by a method described in subsection (2) is deemed to have been received by the intended recipient on the earlier of:

- (a) the day the intended recipient actually receives it; or
- (b) the fifth business day after the day it is sent.

Same

(5) A notice or other document sent by the Director by a method described in subsection (3) is deemed to have been received by the intended recipient on the earlier of:

- (a) the day the intended recipient actually receives it; or
- (b) the first business day after the day the transmission is sent by the Director.

45 Section 200 of the Act is repealed and the following substituted:**Search, etc., of documents kept by Director**

200 (1) A person who has paid the required fee is entitled, using any search method approved by the Director, to search and obtain copies of any document required by this Act or the regulations to be filed with or given to the Director.

Copies

(2) The Director shall, upon receipt of the required fee, give any person a copy or a certified copy of a document required by this Act or the regulations to be filed with or given to the Director.

Privileged documents

(3) Subsections (1) and (2) do not apply in respect of an inspector's report filed with or given to the Director under subsection 174 (6) that the court has ordered not to be made available to the public.

46 Section 201 of the Act is repealed and the following substituted:**Requirements re articles filed with the Director**

201 (1) If this Act permits or requires articles to be filed with the Director, unless otherwise provided in this Act, the regulations or the Director's requirements,

- (a) if the articles are filed with the Director in paper format,
 - (i) one set of the original articles must be filed in the approved form, and

- (ii) the set of original articles referred to in subclause (i) must be signed by two directors or officers of the corporation or, in the case of articles of incorporation, by all its incorporators;
- (b) if the articles are filed with the Director in an electronic format,
 - (i) the articles must be filed in a format that is prescribed by the Minister or required by the Director, and
 - (ii) the articles referred to in subclause (i) must meet any signature or authorization requirements established by the Director under subsection 210.2 (1).

Director's duties

(2) Upon receiving articles completed in accordance with clause (1) (a) or (b), any other required documents and information and the required fee, the Director shall, unless otherwise provided in this Act, the regulations or the Director's requirements and subject to his or her discretion under this Act and to subsection (1),

- (a) endorse the articles with a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file the articles endorsed with the certificate in the records maintained under section 203; and
- (c) send or otherwise make available to the corporation or its representative a copy of the articles endorsed with the certificate.

Date of certificates

(3) A certificate issued under subsection (2), other than a certificate of arrangement, must be dated as of,

- (a) the day the Director receives,
 - (i) the articles completed in accordance with clause (1) (a) or (b),
 - (ii) all other required documents executed in accordance with this Act, the regulations and the Director's requirements,
 - (iii) all other required information, and
 - (iv) the required fee; or
- (b) any later date that is acceptable to the Director and specified by the person who submitted the articles or by the court.

Effective date

(4) A certificate issued under this section is effective on the date shown in the certificate, even if any action required to be taken by the Director under this Act with respect to the issuance of the certificate is taken at a later date.

47 (1) Subsections 202 (1) and (2) of the Act are repealed and the following substituted:**Errors in certificates, etc.**

(1) If a certificate or other document issued or endorsed under this Act, or letters patent, supplementary letters patent or any other document issued or endorsed under a predecessor of this Act, contains an error, or if a certificate or other document has been endorsed or issued in respect of articles or any other documents that contain an error,

- (a) the corporation or its directors or members may apply to the Director for a corrected certificate or other document and, if requested by the Director, shall surrender the certificate or other document and the related articles or documents to the Director within the time period specified by the Director; or
- (b) the Director may notify the corporation that a corrected certificate or other document may be required and the corporation shall, if requested by the Director, surrender the certificate or other document and the related articles or documents to the Director within the time period specified by the Director.

(2) Subsection 202 (3) of the Act is repealed and the following substituted:**Director to endorse corrected certificate, etc.**

(3) After giving the corporation an opportunity to be heard in respect of an error described in subsection (1) and if the Director is of the opinion that it is appropriate to do so and is satisfied that any steps required by the Director have been taken by the corporation, the Director shall endorse a corrected certificate or other document.

(3) The French version of subsection 202 (4) of the Act is amended by striking out "qui est estampillé" and substituting "qui est produit".

(4) Section 202 of the Act is amended by adding the following subsection:**Same**

(4.1) If a correction is made with respect to the date of the certificate, the corrected certificate shall bear the corrected date.

48 Section 203 of the Act is amended by adding the following subsections:

Documents may be publicly available

(4) The Director may publish or otherwise make available to the public,

- (a) any notices or other documents sent by the Director under this Act; and
- (b) any documents required by this Act, the regulations or the Director to be sent to the Director under this Act, except the documents referred to in subsection 174 (6) that the court has ordered not be available to the public.

Inability to receive filings in electronic system

(5) Despite any regulation made under paragraph 4 of subsection 208 (1), if the Director is of the opinion that it is not possible, for any reason, to receive articles, applications and other documents and information in an electronic format in an electronic system maintained under subsection (1) of this section, the Director may require that they be filed in paper format alone in accordance with the Director's requirements, if any, or in another electronic format approved by the Director.

Same, retaining filings and requests until system is operational

(6) If the Director is of the opinion that it is not possible, for any reason, to endorse or issue articles, applications or other documents using an electronic system maintained under subsection (1), the Director may retain articles, applications and other documents that have been filed until it is possible for the Director to endorse or issue them in accordance with this Act, the regulations and the Director's requirements, if any.

Same, searches

(7) If the Director is of the opinion that it is not possible, for any reason, for searches to be made of an electronic system maintained under subsection (1), the Director may retain search requests that have been filed until it is possible for searches to be made.

49 (1) Subsection 204 (1) of the Act is amended by adding "including an electronic copy" at the end.

(2) Subsection 204 (2) of the Act is repealed and the following substituted:

Exception

(2) Unless otherwise provided in the regulations, subsection (1) does not apply to articles or to applications filed in paper format.

50 The Act is amended by adding the following sections:

Filing by fax

204.1 Despite any regulation made under section 208, articles, applications and other documents may be filed by fax only with the Director's consent.

Electronic version prevails

204.2 (1) If articles or an application are filed with the Director in an electronic format and there is a conflict between the electronic version and any other version of the articles or application, the electronic version of the articles endorsed with a certificate under this Act and recorded in an electronic system maintained under section 203 or the electronic version of the application endorsed with an authorization under section 116 or 117 and recorded in an electronic system maintained under section 203, or a printed copy of the applicable electronic version, prevails over any other version of the articles or application that may exist, regardless of whether the other version of the articles or application has been executed in accordance with this Act, the regulations and the Director's requirements.

Same, prescribed documents

(2) If a prescribed document is filed in an electronic format and there is a conflict between the electronic version and any other version of the document, the electronic version of the document recorded in an electronic system maintained under section 203, or a printed copy of the electronic version, prevails over any other version of the document that may exist, regardless of whether the other version of the document has been executed in accordance with this Act, the regulations and the Director's requirements.

51 Section 206 of the Act is repealed and the following substituted:

Delegation of Director's duties and powers

206 The Director may delegate any or all of the Director's duties and powers under this Act to any person, subject to any restrictions set out in the delegation.

Director's certificates, etc.

206.1 (1) If this Act requires or authorizes the Director to endorse or issue a certificate, including a certificate as to any fact or a certified copy of a document, the certificate or certified copy must be signed by the Director or by a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations.

Evidence

(2) A certificate or certified copy referred to in subsection (1), when introduced as evidence in any civil, criminal, administrative, investigative or other action or proceeding, is, in the absence of evidence to the contrary, proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the certificate.

Reproduction of signature

(3) For the purposes of this section, any signature of the Director or of a public servant may be printed or otherwise mechanically or electronically reproduced.

Agreements with authorized persons

206.2 (1) In this section,

“business filing services” includes any of the duties and powers of the Director and related services.

Agreements to provide business filing services

(2) The Minister or a person designated by the Minister may, on behalf of the Crown in right of Ontario, enter into one or more agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Director or other government official.

Not Crown agent

(3) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services is not an agent of the Crown for any purpose despite the *Crown Agency Act*, unless a regulation provides otherwise.

Use, etc., of records and information

(4) An agreement entered into under subsection (2) may also include provisions respecting the use, disclosure, sale or licensing of records and information required under this Act.

Discretion to delegate unaffected by agreement

(5) An agreement entered into under subsection (2) does not affect the Director’s power to delegate any duties or powers under section 206.

No power to waive or refund fees for services

(6) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services may not waive or refund all or part of any fee for such a service that is payable to the Province of Ontario, but the person or entity may pay all or part of the fee on behalf of the person or entity to whom the service was provided.

Deemed date of receipt by Director

(7) Articles, applications and other documents and information sent to a person or entity that has entered into an agreement under subsection (2), that authorizes the person or entity to receive articles, applications and other documents and information on behalf of the Director, are deemed to be received by the Director on the date that they are received by the authorized person or entity.

Agreements for use, etc., of records and information

(8) The Minister or the Director, or a person designated by the Minister or the Director, may enter into an agreement with any person or entity respecting the use, disclosure, sale or licensing of records and information required under this Act.

Property of Crown

206.3 The records and information filed with and maintained by the Director under this Act are the property of the Crown.

52 Section 207 of the Act is repealed and the following substituted:**Transition**

207 (1) Except as provided in subsection (3), any provision in letters patent, supplementary letters patent, by-laws or any special resolution of a corporation that was valid immediately before the day this section comes into force and that is not in conformity with this Act continues to be valid and in effect until the third anniversary of the day this section comes into force.

Deemed amendment after three years

(2) Except as provided in subsection (3), a provision described in subsection (1) that has not been amended to bring it into conformity with this Act is deemed to be amended to the extent necessary to bring it into conformity with this Act on the third anniversary of the day this section comes into force.

Extended period of validity, certain by-laws and special resolutions

(3) The following provisions contained in a corporation's by-laws or a special resolution that were valid immediately before the day this section comes into force and that are not, on or after the day this section comes into force, removed and added to its articles to bring them into conformity with this Act, continue to be valid and in effect until the day articles of amendment are endorsed, whether before, on or after the third anniversary of the day this section comes into force, to add the provision to the articles with any amendments necessary to bring it into conformity with this Act:

1. A provision respecting the number of directors of the corporation.
2. A provision providing for two or more classes or groups of members.
3. A provision respecting voting rights of members.
4. A provision respecting delegates made pursuant to section 130 of the *Corporations Act*.
5. A provision respecting the distribution of the remaining property of a corporation that is not a public benefit corporation on winding up or dissolution.

Amendment of letters patent, etc.

(4) For greater certainty, a corporation may, to come into conformity with this Act,

- (a) amend, by articles of amendment, a provision in its letters patent or supplementary letters patent; and
- (b) amend, remove or replace, under this Act, a provision in its by-laws or a special resolution, including the revocation of a provision required by this Act to be contained in the articles and not in the by-laws or special resolution.

Restated articles

(5) A corporation shall not restate its articles under section 109 unless,

- (a) the articles of the corporation are in conformity with this Act and the regulations; and
- (b) if the articles have been deemed to be amended under subsection (2) or under subsection 167 (5.1), the corporation has amended its articles to bring them into conformity with this Act and the regulations in accordance with this section.

LG in C regulations

207.1 The Lieutenant Governor in Council may make regulations prescribing provisions of this Act and the regulations that are to apply to corporations sole with the modifications, if any, that the regulations specify.

53 (1) Section 208 of the Act is repealed and the following substituted:

Minister's regulations

208 (1) The Minister may make regulations,

1. prescribing or governing any matter referred to in this Act as prescribed or that is required or permitted to be done in accordance with or as provided in the regulations for which a specific power is not otherwise provided;
2. respecting and governing the content, form, format and filing of articles, applications and other documents and information filed with or issued by the Director and the form, format and payment of fees;
3. respecting and governing the manner of completion, submission and acceptance of articles, applications and other documents and information filed with the Director, the payment of fees and the determination of the date of receipt;
4. designating articles, applications and other documents and information to be filed with the Director,
 - i. in paper or electronic format,
 - ii. in electronic format alone, or
 - iii. in paper format alone;
5. subject to any terms and conditions specified in the regulation, prescribing and governing documents and information that are required to support articles, applications and other forms approved under section 210 and specifying, for each of the formats designated under paragraph 4 of this subsection,
 - i. the documents and information that must be filed with the Director, together with articles, applications and other forms approved under section 210, and
 - ii. the documents and information that must be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, and subject to any terms and conditions imposed by the Director, that must be filed with the Director or given to any other person specified in the notice;
6. permitting the Director, subject to any terms and conditions imposed by the Director, for each of the formats designated under paragraph 4,

- i. to require that a document or information prescribed under subparagraph 5 i be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Director or given to any other person specified in the notice,
 - ii. to require that a document or information prescribed under subparagraph 5 ii be filed with the Director, together with articles, applications and other forms approved under section 210, and
 - iii. to require that a document required by this Act to be filed with the Director be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Director or given to any other person specified in the notice;
7. governing the terms and conditions that the Director may impose pursuant to a regulation made under subparagraph 5 ii or paragraph 6;
8. respecting and governing the endorsement of articles and applications with a certificate or authorization and the issuance of certificates and authorizations by the Director, including rules respecting the endorsement and issuance by electronic means;
9. governing the assignment of corporation numbers under section 10;
10. prescribing restrictions in respect of corporations' purposes;
11. governing corporations' names, including prescribing rules and requirements respecting their form and language, prescribing permitted words, expressions, punctuation and other marks and prescribing prohibited words, expressions, punctuation and other marks;
12. prescribing the documents relating to names that must be filed with the Director;
13. governing the retention and destruction of articles, applications and other documents and information filed with the Director, including the form and format in which they must be retained;
14. governing the form, method and manner in which any notice or other document required or permitted to be made or given under this Act is to be made or given, including rules respecting deemed receipt;
15. governing the publication of notices to corporations for the purposes of subsection 170 (1);
16. governing the form of documents and information required or permitted to be made, given, filed, kept or retrieved under this Act, including prescribing rules respecting the making, giving, filing, keeping and retrieval of electronic documents;
17. prescribing technology standards and requirements for filing electronic documents with and giving electronic documents to a corporation, the members, directors and officers of a corporation or any other person;
18. prescribing and governing the form, manner and methods of giving notice and giving or filing other documents to or with a corporation, the members, directors and officers of a corporation or any other person, including prescribing rules respecting deemed receipt;
19. governing the publication of the Ministry's standard organizational by-laws under subsection 18 (2);
20. respecting the authorization of any individual by a member corporation or other entity to represent the member at meetings for the purpose of subsection 48 (7);
21. governing the report to be made by auditors and other persons under section 78, including prescribing the standards, as they exist from time to time, of a prescribed accounting body that must be used for the purposes of Part VII;
22. governing the financial statements to be approved by the directors under Part VIII, including prescribing the standards, as they exist from time to time, of a prescribed accounting body that must be used for their preparation;
23. prescribing information to be contained in the registers of directors, officers and members kept by a corporation under subsection 92 (1);
24. prescribing circumstances for the purpose of clause 170 (2.0.1) (c);
25. governing waivers and abridgments of time under section 198, including prescribing the manner in which waivers and abridgements of time may be made;
26. prescribing documents for the purposes of subsection 204.2 (2);
27. prescribing duties and powers of the Director in addition to those set out in this Act;
28. designating public servants employed under Part III of the *Public Service of Ontario Act, 2006*, or classes of them, for the purposes of endorsing and issuing certificates, including certificates as to any fact and certifying true copies of documents required or authorized under this Act;

- 29. providing that a person or entity that enters into an agreement under subsection 206.2 (2) is an agent of the Crown and specifying the services and purposes for which the person or entity is considered to be an agent of the Crown;
- 30. defining any word or expression used in this Act that has not already been expressly defined in this Act;
- 31. prescribing any matter that the Minister considers necessary or advisable for the purposes of this Act;
- 32. providing for transitional matters that the Minister considers necessary or advisable in connection with the implementation of amendments to this Act enacted by Schedule 8 to the *Cutting Unnecessary Red Tape Act, 2017*.

Rolling incorporation by reference

(2) A regulation made under subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

(2) Paragraph 32 of subsection 208 (1) of the Act, as enacted by subsection (1), is repealed.

54 Subsection 209 (1) of the Act is repealed and the following substituted:

Fees

(1) The Minister may by order require the payment of fees for search reports, copies of documents or information, filing of documents or other services under this Act, approve the amount of those fees and provide for the waiver or refund of all or any part of any of those fees.

55 Section 210 of the Act is amended by adding the following subsection:

Non-application of *Legislation Act, 2006*

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

56 Part XV of the Act is amended by adding the following sections:

Methods of endorsing and issuing

210.1 The Director may endorse articles and applications with a certificate or authorization and issue certificates, authorizations, certified copies and other documents by any method, and may use or issue validation codes or other systems or methods of validation in respect of the endorsements and issuance.

Requirements established by Director

210.2 (1) The Director may establish requirements.

- (a) respecting and governing the content, form, format and filing of articles, applications and other documents and information filed with or issued by the Director and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of articles, applications and other documents and information filed with the Director, the payment of fees and the determination of the date of receipt;
- (c) specifying that articles, applications and other documents and information may be filed with the Director and fees may be paid only by a person authorized by the Director or who belongs to a class of persons authorized by the Director;
- (d) governing the authorization of persons described in clause (c), including:
 - (i) establishing conditions and requirements to be an authorized person,
 - (ii) imposing terms and conditions on an authorization, including terms and conditions governing the filing of articles, applications and other documents and information and the payment of fees, and
 - (iii) requiring any person who applies for an authorization to enter into an agreement with the Director or a person designated by the Director governing the filing of articles, applications and other documents and information;
- (e) specifying whether and which articles, applications and other forms approved under section 210 and supporting documents must be signed, specifying requirements respecting their signing, and governing the form and format of signatures, including establishing rules respecting electronic signatures;
- (f) specifying and governing methods of executing articles, applications, other forms approved under section 210, supporting documents and statements, other than by signing them, and establishing rules respecting those methods;
- (g) specifying requirements for corporations filing articles, applications and other forms approved under section 210 electronically to keep a properly executed version of them at the registered office in paper or electronic format and, if required by notice from the Director, to provide a copy of the executed version to the Director within the time period set out in the notice;
- (h) if this Act specifies requirements respecting the signing of articles, applications and other documents filed with the Director, specifying and governing alternative requirements for their signing or providing that signing is not required.

- (i) establishing the time and circumstances when articles, applications and other documents and information are considered to be sent to or received by the Director, and the place where they are considered to have been sent or received;
- (j) establishing technology standards and requirements for filing articles, applications and other documents and information in electronic format with the Director and paying fees in electronic format;
- (k) specifying a type of copy of a court order or other document issued by the court that may be filed with the Director;
- (l) respecting and governing the endorsement of articles and applications with a certificate or authorization and the issuance of certificates and authorizations by the Director, including rules respecting endorsement and the issuance of certificates by electronic means;
- (m) governing the assignment of corporation numbers under section 10;
- (n) governing searches and search methods of records for the purpose of subsection 200 (1).

Classes

- (2) For the purposes of clause (1) (c), a class may be defined,
- (a) in terms of any attribute or combination of attributes; or
 - (b) as consisting of, including or excluding a specified member.

Non-application of *Legislation Act, 2006*

- (3) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1).

Conflict

- (4) If there is a conflict between a requirement established under this section and a regulation made under this Act, the regulation prevails to the extent of the conflict.

57 Part XVI (section 211) of the Act is repealed.

58 Sections 212 and 226, subsection 231 (2) and sections 234 and 243 of the Act are repealed.

59 Section 249 of the Act is repealed and the following substituted:

Commencement

249 (1) Subject to subsection (2), this Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Section 105, subsections 111 (3) and (4), 116 (3) and 118 (4) and (5) come into force on a day to be named by proclamation of the Lieutenant Governor that is not earlier than the third anniversary of the day subsection 4 (1) comes into force.

60 Subsection 55 (9) of Schedule 7 to the *Budget Measures Act, 2015* is repealed.

CONSEQUENTIAL AMENDMENTS

AgriCorp Act, 1996

61 Subsection 1 (4) of the *AgriCorp Act, 1996* is repealed and the following substituted:

Non-application of Acts

(4) The *Corporations Act*, the *Corporations Information Act*, the *Insurance Act* and the *Not-for-Profit Corporations Act, 2010* do not apply to AgriCorp or to corporations constituted under subsection 16 (1).

Agricultural Research Institute of Ontario Act

62 (1) Subsection 2 (1) of the *Agricultural Research Institute of Ontario Act* is amended by striking out “body corporate” and substituting “body corporate without share capital”.

(2) Section 2 of the Act is amended by adding the following subsection:

Non-application of *Not-for-Profit Corporations Act, 2010*

(1.1) The *Not-for-Profit Corporations Act, 2010* does not apply to the Research Institute.

Alcohol and Gaming Regulation and Public Protection Act, 1996

63 (1) Subsection 2 (9) of the *Alcohol and Gaming Regulation and Public Protection Act, 1996* is repealed and the following substituted:

Non-application of Acts

(9) The following Acts do not apply to the Commission:

1. The *Corporations Information Act*.
2. The *Not-for-Profit Corporations Act, 2010*, except as is prescribed by regulations made under this Part.

(2) **Section 16 of the Act is amended by adding the following clause:**

(10) a) prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Commission:

Algoma University Act, 2008

64 Subsection 2 (3) of the *Algoma University Act, 2008* is amended by striking out “*Corporations Act*” and substituting “*Not-for-Profit Corporations Act, 2010*”.

Algonquin Forestry Authority Act

65 Subsection 3 (4) of the *Algonquin Forestry Authority Act* is repealed and the following substituted:

Non-application of Acts

(4) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to the Authority.

Art Gallery of Ontario Act

66 Section 9 of the *Art Gallery of Ontario Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

9 (1) The *Not-for-Profit Corporations Act, 2010* applies to the Gallery, except as prescribed by regulation under subsection (2).

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that do not apply to the Gallery.

Arts Council Act

67 The *Arts Council Act* is amended by adding the following section:

Not-for-Profit Corporations Act, 2010

12 (1) The *Not-for-Profit Corporations Act, 2010* applies to the Council, except as prescribed by regulation under subsection (2).

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that do not apply to the Council.

Centennial Centre of Science and Technology Act

68 Subsections 2 (4) and (5) of the *Centennial Centre of Science and Technology Act* are repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

(4) The *Not-for-Profit Corporations Act, 2010* does not apply to the Centre, except as prescribed by regulation under subsection (5).

Regulations

(5) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Centre.

Child Care and Early Years Act, 2014

69 Subsection 57 (2) of the *Child Care and Early Years Act, 2014*, as re-enacted by section 77 of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017*, is repealed and the following substituted:

Natural person powers

(2) For greater certainty, a service system manager may use its powers under the following provisions for the purposes of this Act:

1. If the service system manager is a municipality, section 9 of the *Municipal Act, 2001* or section 7 of the *City of Toronto Act, 2006*.

2. If the service system manager is a district social services administration board, section 15 of the *Not-for-Profit Corporations Act, 2010*.

City of Greater Sudbury Act, 1999

70 Clause 11.8 (2) (a) of the *City of Greater Sudbury Act, 1999* is repealed and the following substituted:

- (a) to which the *Not-for-Profit Corporations Act, 2010* applies; or

City of Hamilton Act, 1999

71 Clause 11.2 (2) (a) of the *City of Hamilton Act, 1999* is repealed and the following substituted:

- (a) to which the *Not-for-Profit Corporations Act, 2010* applies; or

City of Ottawa Act, 1999

72 Clause 12.2 (2) (a) of the *City of Ottawa Act, 1999* is repealed and the following substituted:

- (a) to which the *Not-for-Profit Corporations Act, 2010* applies; or

City of Toronto Act, 2006

73 (1) Subsection 125 (4) of the *City of Toronto Act, 2006* is repealed and the following substituted:

Non-application of Acts

- (4) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to the City.

Local boards and *Not-for-Profit Corporations Act, 2010*

- (5) Except as prescribed, the *Not-for-Profit Corporations Act, 2010* does not apply to a local board that is a body corporate.

Regulations

- (6) The Lieutenant Governor in Council may, by regulation, prescribe for the purposes of subsection (5).

- (a) a local board;
- (b) the provisions of the *Not-for-Profit Corporations Act, 2010* that are to apply to the local board; and
- (c) any modifications subject to which those provisions are to apply to the local board.

Definition

- (7) In this section,

“local board” means a local board other than,

- (a) a board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*,
- (b) a board of management established under the *Long-Term Care Homes Act, 2007*,
- (c) a body corporate established under the *Planning Act*, or
- (d) a city board established under this Act.

(2) Subsection 142 (4) of the Act is repealed and the following substituted:

Non-application of Acts

- (4) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to a city board that is a body corporate.

Compensation for Victims of Crime Act

74 Subsection 3 (2) of the *Compensation for Victims of Crime Act* is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Condominium Act, 1998

75 Subsection 5 (3) of the *Condominium Act, 1998* is amended by striking out “The *Corporations Act*” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

Conservation Land Act

76 Clause 3 (1) (f) of the *Conservation Land Act* is repealed and the following substituted:

- (f) a corporation incorporated under the *Not-for-Profit Corporations Act, 2010* or a predecessor of that Act or the *Canada Not-for-profit Corporations Act* or a predecessor of that Act,

Co-operative Corporations Act

77 (1) The following provisions of the *Co-operative Corporations Act* are amended by striking out “a corporation subject to the provisions of Part III of the *Corporations Act*” wherever that expression appears and substituting in each case “a corporation subject to the *Not-for-Profit Corporations Act, 2010*”:

1. Clause 143 (b).
2. Clause 144 (1) (b).
3. Clause 144.1 (2) (b).

(2) Clause 151 (1) (n) of the Act is amended by striking out “a corporation to which Part III of the *Corporations Act* applies” at the end and substituting “a corporation to which the *Not-for-Profit Corporations Act, 2010* applies”.

(3) Subsection 158.1 (1) of the Act is repealed and the following substituted:

Continuation of corporations incorporated under other Acts

(1) A corporation incorporated under the *Business Corporations Act*, the *Corporations Act*, the *Not-for-Profit Corporations Act, 2010* or a predecessor of any of these Acts may apply to the Minister for a certificate of continuance continuing it as if it had been incorporated under this Act if the application meets the requirements set out in the Act that governs the corporation’s corporate status.

Credit Unions and Caisses Populaires Act, 1994

78 Subsection 249 (2) of the *Credit Unions and Caisses Populaires Act, 1994* is repealed and the following substituted:

Non-application of Acts

(2) The *Corporations Act* and the *Not-for-Profit Corporations Act, 2010* do not apply to the Corporation.

Education Act

79 Clause 248 (2) (f) of the *Education Act* is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Education Quality and Accountability Office Act, 1996

80 (1) Section 10 of the *Education Quality and Accountability Office Act, 1996* is amended by striking out “The *Corporations Act*” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

(2) Clause 26 (1) (c) of the Act is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Electricity Act, 1998

81 The following provisions of the *Electricity Act, 1998* are amended by striking out “the *Corporations Act*” wherever that expression appears and substituting in each case “the *Not-for-Profit Corporations Act, 2010*”:

1. Section 83.
2. Clause 86 (1) (b).

Excellent Care for All Act, 2010

82 (1) Clause 16 (1) (r) of the *Excellent Care for All Act, 2010* is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

(2) Section 17 of the Act is repealed.

Farm Products Marketing Act

83 Subsection 3 (5) of the *Farm Products Marketing Act* is repealed and the following substituted:

Body corporate without share capital

(5) Every local board is a body corporate without share capital to which the *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply.

Farm Products Payments Act

84 Subsection 2 (6) of the *Farm Products Payments Act* is repealed and the following substituted:

Application of *Not-for-Profit Corporations Act, 2010*

(6) The *Not-for-Profit Corporations Act, 2010* does not apply to a board.

George R. Gardiner Museum of Ceramic Art Act

85 Section 18 of the *George R. Gardiner Museum of Ceramic Art Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

18 (1) The *Not-for-Profit Corporations Act, 2010* applies to the Museum, except as prescribed by regulation under subsection (2).

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that do not apply to the Museum.

Higher Education Quality Council of Ontario Act, 2005

86 Clause 9 (1) (o) of the *Higher Education Quality Council of Ontario Act, 2005* is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Housing Development Act

87 Subsection 13 (2) of the *Housing Development Act* is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Housing Services Act, 2011

88 (1) Subsection 13 (2) of the *Housing Services Act, 2011*, as re-enacted by subsection 78 (1) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017*, is repealed and the following substituted:

Natural person powers

(2) For greater certainty, a service manager may use its powers under the following provisions for the purposes of this Act:

1. If the service manager is a municipal service manager, section 9 of the *Municipal Act, 2001* or section 7 of the *City of Toronto Act, 2006*.
2. If the service manager is a dssab service manager, section 15 of the *Not-for-Profit Corporations Act, 2010*.

(2) Subsection 15 (1) of the Act, as re-enacted by subsection 78 (2) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017*, is repealed and the following substituted:

Clarification on powers – dssab service manager

(1) Subsection 4 (1) of the *District Social Services Administration Boards Act* does not limit a dssab service manager from exercising its powers under this Act or section 15 of the *Not-for-Profit Corporations Act, 2010* throughout its service area for the purposes of this Act.

Human Rights Code

89 Clause 48 (2) (o) of the *Human Rights Code* is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Legal Aid Services Act, 1998

90 (1) Subsection 52 (1) of the *Legal Aid Services Act, 1998* is amended by striking out “The *Corporations Act*” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

(2) Clause 97 (2) (g) of the Act is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Local Health System Integration Act, 2006

91 Subsection 4 (2) of the *Local Health System Integration Act, 2006* is repealed and the following substituted:

Other Acts

(2) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to a local health integration network, except as prescribed.

The McMaster University Act, 1976

92 Subsection 1 (2) of the *The McMaster University Act, 1976* is amended by striking out “The *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

McMichael Canadian Art Collection Act

93 Subsection 2 (5) of the *McMichael Canadian Art Collection Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

(5) The *Not-for-Profit Corporations Act, 2010* does not apply to the Corporation, except as prescribed by regulation under subsection (6).

Regulations

(6) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Corporation.

Metrolinx Act, 2006

94 (1) Subsection 37 (1) of the *Metrolinx Act, 2006* is repealed and the following substituted:

Non-application of corporate Acts

(1) Except as provided in subsections (2) and (3), the *Business Corporations Act*, the *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to the Corporation or its subsidiary corporations.

(2) The following provisions of the Act are amended by striking out “the *Corporations Act*” wherever that expression appears and substituting in each case “the *Not-for-Profit Corporations Act, 2010*”:

1. Subsection 37 (3), in the portion before clause (a).

2. Clause 42 (1) (k).

Metropolitan Toronto Convention Centre Corporation Act

95 Subsection 2 (2) of the *Metropolitan Toronto Convention Centre Corporation Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

(2) The *Not-for-Profit Corporations Act, 2010* does not apply to the Corporation, except as prescribed by regulation under subsection (2.1).

Regulations

(2.1) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Corporation.

Milk Act

96 Subsection 6 (4) of the *Milk Act* is repealed and the following substituted:

Body corporate without share capital

(4) Every marketing board is a body corporate without share capital to which the *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply.

Mining Act

97 Clause 184 (1) (a) of the *Mining Act* is repealed and the following substituted:

(a) are forfeited to the Crown under the *Corporations Act*, the *Not-for-Profit Corporations Act, 2010* or the *Business Corporations Act*, or any predecessor of any of them, or are forfeited to the Crown for any other cause, or

Ministry of Agriculture, Food and Rural Affairs Act

98 (1) Subsection 12 (1) of the *Ministry of Agriculture, Food and Rural Affairs Act* is amended by striking out “body corporate” and substituting “body corporate without share capital”.

(2) Subsection 12 (7) of the Act is repealed and the following substituted:

Non-application of Acts

(7) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to the Commission.

Municipal Act, 2001

99 (1) Section 4 of the *Municipal Act, 2001* is repealed and the following substituted:

Body corporate

4 The inhabitants of every municipality are incorporated as a body corporate.

Application of Acts

4.1 (1) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to a municipality.

Local boards and *Not-for-Profit Corporations Act, 2010*

(2) Except as prescribed, the *Not-for-Profit Corporations Act, 2010* does not apply to a local board that is a body corporate.

Regulations

(3) The Lieutenant Governor in Council may, by regulation, prescribe for the purposes of subsection (2)

- (a) a local board;
- (b) the provisions of the *Not-for-Profit Corporations Act, 2010* that are to apply to the local board; and
- (c) any modifications subject to which those provisions are to apply to the local board.

Definition

(4) In this section,

“local board” means a local board other than,

- (a) a board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*,
- (b) a board of management established under the *Long-Term Care Homes Act, 2007*,
- (c) a body corporate established under the *Planning Act*, or
- (d) a municipal service board established under this Act.

(2) Subsection 197 (4) of the Act is repealed and the following substituted:

Non-application of Acts

(4) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to a municipal service board that is a body corporate.

Municipal Property Assessment Corporation Act, 1997

100 Subsection 7 (5) of the *Municipal Property Assessment Corporation Act, 1997* is repealed and the following substituted:

Non-application of corporate Acts

(5) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply with respect to the Corporation except, in the case of the *Not-for-Profit Corporations Act, 2010*, as is prescribed by regulation.

Regulations

(6) The Minister may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Corporation.

Niagara Escarpment Planning and Development Act

101 Subsection 5 (13) of the *Niagara Escarpment Planning and Development Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

(13) The *Not-for-Profit Corporations Act, 2010* does not apply to the Commission.

Northern Ontario Heritage Fund Act

102 Section 4 of the *Northern Ontario Heritage Fund Act* is repealed and the following substituted:

Application of *Not-for-Profit Corporations Act, 2010*

4 (1) The *Not-for-Profit Corporations Act, 2010* does not apply to the Corporation, except as is prescribed by regulation.

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Corporation.

Northern Services Boards Act

103 (1) Subsection 6 (1) of the *Northern Services Boards Act* is repealed and the following substituted:

Status of Board

(1) A Board is a corporation, but the *Not-for-Profit Corporations Act, 2010* does not apply to Boards, except as is prescribed by regulation.

(2) Subsection 7 (7) of the Act is repealed and the following substituted:

Assignment of contracts

(7) A Board may, by by-law, accept the assignment of any contract or agreement entered into by a corporation incorporated under the *Not-for-Profit Corporations Act, 2010*, or a predecessor of that Act, where the subject matter of the contract or agreement is consistent with the powers of the Board.

(3) Section 33 of the Act is repealed and the following substituted:

Regulations

33 The Lieutenant Governor in Council may make regulations.

- (a) amending the Schedule to this Act;
- (b) prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to Boards.

(4) Subsection 39 (13) of the Act is amended by striking out “The *Corporations Act*” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

Ontario Capital Growth Corporation Act, 2008

104 Subsection 2 (2) of the *Ontario Capital Growth Corporation Act, 2008* is amended by striking out “The *Corporations Act*” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

Ontario College of Art & Design University Act, 2002

105 Subsection 2 (2) of the *Ontario College of Art & Design University Act, 2002* is amended by striking out “*Corporations Act*” and substituting “*Not-for-Profit Corporations Act, 2010*”.

Ontario College of Teachers Act, 1996

106 (1) Subsection 2 (3) of the *Ontario College of Teachers Act, 1996* is amended by striking out “The *Corporations Act*” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

(2) Paragraph 1 of subsection 40 (1) of the Act is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Ontario Colleges of Applied Arts and Technology Act, 2002

107 (1) Clause 8 (1) (c) of the *Ontario Colleges of Applied Arts and Technology Act, 2002* is amended by striking out “*Corporations Act* under such conditions as may be prescribed” at the end and substituting “*Not-for-Profit Corporations Act, 2010* under the conditions, if any, that are prescribed”.

(2) Subsection 8 (3) of the Act is amended by striking out “*Corporations Act*” and substituting “*Not-for-Profit Corporations Act, 2010*”.

Ontario Educational Communications Authority Act

108 (1) Subsection 6 (4) of the *Ontario Educational Communications Authority Act*, as re-enacted by section 81 of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017*, is repealed and the following substituted:

Application of *Not-for-Profit Corporations Act, 2010*

(4) The provisions of the *Not-for-Profit Corporations Act, 2010* that are prescribed by the regulations do not apply to the Authority unless the approval of the Lieutenant Governor in Council is obtained.

(2) Subsection 6 (4.1) of the Act, as enacted by section 81 of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017*, is repealed.

(3) Section 17 of the Act is amended by adding the following clause:

- (e) prescribing provisions of the *Not-for-Profit Corporations Act, 2010* for the purposes of subsection 6 (4).

Ontario Energy Board Act, 1998

109 Section 4.15 of the *Ontario Energy Board Act, 1998* is amended by striking out “The *Corporations Act*” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

Ontario Food Terminal Act

110 (1) Subsection 2 (1) of the *Ontario Food Terminal Act* is amended by striking out “body corporate” and substituting “body corporate without share capital”.

(2) Section 4 of the Act is amended by adding the following subsection:

Application of *Not-for-Profit Corporations Act, 2010*

(2.1) The *Not-for-Profit Corporations Act, 2010* does not apply to the Board.

Ontario French-language Educational Communications Authority Act, 2008

111 (1) Subsection 6 (4) of the *Ontario French-language Educational Communications Authority Act, 2008*, as re-enacted by section 83 of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017*, is repealed and the following substituted:

Application of *Not-for-Profit Corporations Act, 2010*

(4) The provisions of the *Not-for-Profit Corporations Act, 2010* that are prescribed by the regulations do not apply to the Authority unless the approval of the Lieutenant Governor in Council is obtained.

(2) Subsection 6 (4.1) of the Act, as enacted by section 83 of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017*, is repealed.

(3) Section 22 of the Act is amended by adding the following clause:

(e) prescribing provisions of the *Not-for-Profit Corporations Act, 2010* for the purposes of subsection 6 (4).

Ontario Heritage Act

112 (1) Section 6 of the *Ontario Heritage Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

6 The *Not-for-Profit Corporations Act, 2010* does not apply to the Trust, except as prescribed by regulation.

(2) Subsection 70 (1) of the Act is amended by adding the following clause:

(n) prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Trust.

Ontario Mortgage and Housing Corporation Act

113 Subsection 2 (5) of the *Ontario Mortgage and Housing Corporation Act* is amended by striking out “The Corporations Act” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

Ontario Municipal Employees Retirement System Act, 2006

114 (1) Subsection 22 (4) of the *Ontario Municipal Employees Retirement System Act, 2006* is repealed and the following substituted:

Same

(4) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to the Sponsors Corporation.

(2) Subsection 32 (4) of the Act is repealed and the following substituted:

Same

(4) The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to the Administration Corporation.

Ontario Northland Transportation Commission Act

115 The *Ontario Northland Transportation Commission Act* is amended by adding the following section:

Not-for-Profit Corporations Act, 2010

2.1 (1) The *Not-for-Profit Corporations Act, 2010* does not apply to the Commission except as is prescribed by regulation.

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Commission.

Ontario Place Corporation Act

116 (1) Section 5 of the *Ontario Place Corporation Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

5 The *Not-for-Profit Corporations Act, 2010* does not apply to the Corporation, except as prescribed by regulation under section 10.1.

(2) The Act is amended by adding the following section:

Regulations, additional

10.1 The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Corporation.

Ontario Trails Act, 2016

117 Clause (h) of the definition of “eligible body” in subsection 12 (1) of the *Ontario Trails Act, 2016* is amended by striking out “Part III of the Corporations Act” and substituting “the *Not-for-Profit Corporations Act, 2010* or a predecessor of that Act”.

Ottawa Convention Centre Corporation Act

118 Subsection 2 (2) of the *Ottawa Convention Centre Corporation Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

(2) The *Not-for-Profit Corporations Act, 2010* does not apply to the Centre, except as prescribed by regulation under subsection (2.1).

Regulations

(2.1) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Centre.

Planning Act

119 The *Planning Act* is amended by adding the following section:

Not-for-Profit Corporations Act, 2010

1.2 The *Not-for-Profit Corporations Act, 2010* does not apply to a body corporate established under this Act.

Prepaid Hospital and Medical Services Act

120 (1) Section 3 of the *Prepaid Hospital and Medical Services Act* is repealed and the following substituted:

Incorporation

3 No articles of incorporation of an association under the *Not-for-Profit Corporations Act, 2010* or the *Business Corporations Act* shall be issued without the written approval of the Superintendent.

(2) Subsection 9 (4) of the Act is amended by striking out “section 210” and substituting “section 208” and by striking out “sections 208 to 238” and substituting “sections 207 to 236”.

(3) Subsection 9 (4) of the Act is repealed and the following substituted:

Winding up

(4) The Superintendent may apply to the court under section 137 of the *Not-for-Profit Corporations Act, 2010* or section 208 of the *Business Corporations Act*, as appropriate, for an order winding up an association that has ceased issuing contracts to its members or subscribers, and sections 136 to 165 of the *Not-for-Profit Corporations Act, 2010* or sections 207 to 236 of the *Business Corporations Act*, as the case may be, apply to the winding up.

Professional Foresters Act, 2000

121 (1) Subsection 4 (3) of the *Professional Foresters Act, 2000* is amended by striking out “The Corporations Act” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

(2) Clause 52 (1) (a) of the Act is amended by striking out “the Corporations Act” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Professional Geoscientists Act, 2000

122 (1) Subsection 27 (3) of the *Professional Geoscientists Act, 2000* is amended by striking out “The Corporations Act” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

(2) Clause 43 (1) (g) of the Act is amended by striking out “the Corporations Act” and substituting “the *Not-for-Profit Corporations Act, 2010*”.

Public Guardian and Trustee Act

123 (1) The *Public Guardian and Trustee Act* is amended by adding the following section:

Not-for-Profit Corporations Act, 2010

13.2 The *Not-for-Profit Corporations Act, 2010* does not apply to the Public Guardian and Trustee except as is prescribed by regulation.

(2) Section 14 of the Act is amended by adding the following clause:

- (1) prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Public Guardian and Trustee and prescribing any modifications, if necessary.

Real Estate and Business Brokers Act, 2002

124 Clause 5 (1) (a) of the *Real Estate and Business Brokers Act, 2002* is amended by adding “the *Not-for-Profit Corporations Act, 2010*” after “the *Courts of Justice Act*”.

Resource Recovery and Circular Economy Act, 2016

125 (1) Section 35 of the *Resource Recovery and Circular Economy Act, 2016*, as amended by subsection 109 (1) of that Act, is repealed and the following substituted:

Application of corporate Acts

35 The *Corporations Act*, the *Corporations Information Act* and the *Not-for-Profit Corporations Act, 2010* do not apply to the Authority, except as provided by the regulations.

(2) Subclause 105 (b) (iv) of the Act, as amended by subsection 109 (2) of that Act, is repealed and the following substituted:

(iv) prescribing provisions of the *Corporations Act*, the *Corporations Information Act* and the *Not-for-Profit Corporations Act, 2010* that apply to subsidiary corporations:

(3) Clause 106 (1) (h) of the Act, as amended by subsection 109 (3) of that Act, is repealed and the following substituted:

(h) prescribing provisions of the *Corporations Act*, the *Corporations Information Act* and the *Not-for-Profit Corporations Act, 2010* that apply to the Authority.

Retirement Homes Act, 2010

126 Section 15 of the *Retirement Homes Act, 2010* is amended by striking out “*Corporations Act*” and substituting “*Not-for-Profit Corporations Act, 2010*”.

Royal Botanical Gardens Act, 1989

127 Subsection 2 (3) of the *Royal Botanical Gardens Act, 1989* is amended by striking out “*The Corporations Act*” at the beginning and substituting “*The Not-for-Profit Corporations Act, 2010*”.

Royal Ontario Museum Act

128 The *Royal Ontario Museum Act* is amended by adding the following section:

Not-for-Profit Corporations Act, 2010

15 (1) The *Not-for-Profit Corporations Act, 2010* applies to the Museum, except as prescribed by regulation under subsection (2).

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that do not apply to the Museum.

Ryerson University Act, 1977

129 Subsection 1 (2) of the *Ryerson University Act, 1977* is amended by striking out “*The Corporations Act*” and substituting “*the Not-for-Profit Corporations Act, 2010*”.

Science North Act

130 (1) Subsection 2 (5) of the *Science North Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

(5) The *Not-for-Profit Corporations Act, 2010* does not apply to the Centre, except as prescribed by regulation under clause 16 (1) (c).

(2) Subsection 16 (1) of the Act is amended by adding the following clause:

(c) prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Centre.

Shortline Railways Act, 1995

131 Section 3 of the *Shortline Railways Act, 1995* is repealed and the following substituted:

Corporate structure

3 The *Business Corporations Act* or the *Not-for-Profit Corporations Act, 2010*, as appropriate, applies to a corporation operating a shortline railway despite section 2 of the *Business Corporations Act*, section 4 of the *Not-for-Profit Corporations Act, 2010* and *The Railways Act*.

St. Lawrence Parks Commission Act

132 Section 21 of the *St. Lawrence Parks Commission Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

21 (1) The *Not-for-Profit Corporations Act, 2010* does not apply to the Commission, except as prescribed by regulation under subsection (2).

Regulations, additional

(2) The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Commission.

Surveyors Act

133 Section 46 of the *Surveyors Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

46 The *Not-for-Profit Corporations Act, 2010* does not apply to the Association, except as is prescribed by regulation.

Teachers' Pension Act

134 Subsection 6 (2) of the *Teachers' Pension Act* is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010

(2) The *Not-for-Profit Corporations Act, 2010* does not apply to the Board.

Toronto Islands Residential Community Stewardship Act, 1993

135 Subsection 11 (4) of the *Toronto Islands Residential Community Stewardship Act, 1993* is amended by striking out "The *Corporations Act*" at the beginning and substituting "The *Not-for-Profit Corporations Act, 2010*".

Toronto Waterfront Revitalization Corporation Act, 2002

136 Subsection 2 (5) of the *Toronto Waterfront Revitalization Corporation Act, 2002* is amended by striking out "The *Corporations Act*" at the beginning and substituting "The *Not-for-Profit Corporations Act, 2010*".

Town of Haldimand Act, 1999

137 Clause 13.2 (2) (a) of the *Town of Haldimand Act, 1999* is repealed and the following substituted:

(a) to which the *Not-for-Profit Corporations Act, 2010* applies; or

Town of Norfolk Act, 1999

138 Clause 13.2 (2) (a) of the *Town of Norfolk Act, 1999* is repealed and the following substituted:

(a) to which the *Not-for-Profit Corporations Act, 2010* applies; or

University Foundations Act, 1992

139 (1) Subsection 4 (6) of the *University Foundations Act, 1992* is amended by striking out "The *Corporations Act*" at the beginning and substituting "The *Not-for-Profit Corporations Act, 2010*".

(2) Clause 11 (1) (d) of the Act is amended by striking out "*Corporations Act*" and substituting "*Not-for-Profit Corporations Act, 2010*".

University of Ontario Institute of Technology Act, 2002

140 Subsection 2 (3) of the *University of Ontario Institute of Technology Act, 2002* is amended by striking out "*Corporations Act*" and substituting "*Not-for-Profit Corporations Act, 2010*".

The University of Toronto Act, 1971

141 (1) Subsection 1 (2) of *The University of Toronto Act, 1971* is amended by striking out "Sections 85 and 347 of *The Corporations Act*" at the beginning and substituting "Sections 64 and 169 of the *Not-for-Profit Corporations Act, 2010*".

(2) Subsection 1 (3) of the Act is amended by striking out "*The Corporations Act*" and substituting "the *Not-for-Profit Corporations Act, 2010*".

University of Western Ontario Act, 1982

142 Subsection 1 (2) of the *University of Western Ontario Act, 1982* is amended by striking out "*Corporations Act*" and substituting "*Not-for-Profit Corporations Act, 2010*".

Waste Diversion Transition Act, 2016

143 (1) Subsection 14 (2) of the *Waste Diversion Transition Act, 2016*, as amended by subsection 77 (1) of that Act, is amended by striking out "the *Not-for-Profit Corporations Act, 2010*" and substituting "the *Corporations Act* or the *Not-for-Profit Corporations Act, 2010*".

(2) Section 23 of the Act, as amended by subsection 77 (2) of that Act, is amended by striking out “*The Not-for-Profit Corporations Act, 2010*” at the beginning and substituting “*The Corporations Act, the Not-for-Profit Corporations Act, 2010*”.

(3) Subsection 43 (8) of the Act is repealed and the following substituted:

Same

(8) The administrator is a member of the industry funding organization for the purposes of any provision of Part VI of the *Corporations Act* that is prescribed to apply to the organization under section 23 of this Act.

(4) Subsection 43 (8) of the Act, as amended by subsection 77 (3) of that Act, is repealed and the following substituted:

Same

(8) The administrator is a member of the industry funding organization for the purposes of any provision of Part VI of the *Corporations Act* or Part XII of the *Not-for-Profit Corporations Act, 2010* that is prescribed to apply to the organization under section 23 of this Act.

(5) Clause 73 (1) (f) of the Act, as amended by subsection 77 (4) of that Act, is amended by striking out “*the Not-for-Profit Corporations Act, 2010*” and substituting “*the Corporations Act, the Not-for-Profit Corporations Act, 2010*”.

(6) Subclause 73 (1) (h) (iv) of the Act, as amended by subsection 77 (5) of that Act, is amended by striking out “*the Not-for-Profit Corporations Act, 2010*” and substituting “*the Corporations Act, the Not-for-Profit Corporations Act, 2010*”.

The Wilfrid Laurier University Act, 1973

144 Subsection 2 (2) of *The Wilfrid Laurier University Act, 1973* is amended by striking out “*The Corporations Act*” and substituting “*the Not-for-Profit Corporations Act, 2010*”.

OTHER AMENDMENTS

Budget Measures Act, 2015

145 Subsection 55 (8) of Schedule 7 to the *Budget Measures Act, 2015* is repealed.

Child Care Modernization Act, 2014

146 Section 89 and subsection 90 (2) of Schedule 1 to the *Child Care Modernization Act, 2014* are repealed.

Protecting Condominium Owners Act, 2015

147 The following provisions of the *Protecting Condominium Owners Act, 2015* are amended by striking out “subsection 211 (1) of the *Not-for-Profit Corporations Act, 2010*” wherever that expression appears and substituting in each case “subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010*”:

1. Subsection 159 (2) of Schedule 1.
2. Subsection 83 (2) of Schedule 2.
3. Subsection 83 (3) of Schedule 2.

Putting Consumers First Act (Consumer Protection Statute Law Amendment), 2017

148 The following provisions of Schedule 1 to the *Putting Consumers First Act (Consumer Protection Statute Law Amendment), 2017* are amended by striking out “subsection 211 (1) of the *Not-for-Profit Corporations Act, 2010*” wherever that expression appears and substituting in each case “subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010*”:

1. Subsection 82 (3).
2. Subsection 82 (4).

Strong Communities through Affordable Housing Act, 2011

149 Subsections 185 (1) and (2) of Schedule 1 to the *Strong Communities through Affordable Housing Act, 2011* are repealed.

COMMENCEMENT

Commencement

150 (1) Subject to subsections (2) to (6), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Subsections 9 (1), 29 (2) and 30 (3), section 43, subsections 47 (2) and (3), sections 57, 58, 59 and 60, subsections 82 (2), 120 (2) and 143 (3) and sections 145 to 149 come into force on the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(3) Subsection 28 (2) comes into force on the 25th anniversary of the day subsection 3 (1) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force.

(4) Subsection 53 (2) comes into force on the third anniversary of the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(5) Sections 61 to 68 and 70 to 81, subsection 82 (1), sections 83 to 87 and 89 to 107, subsection 108 (3), sections 109 and 110, subsection 111 (3), sections 112 to 119, subsections 120 (1) and (3), sections 121 to 142, subsections 143 (1), (2), (4), (5) and (6) and section 144 come into force on the later of the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force and the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(6) Sections 69 and 88, subsections 108 (1) and (2) and 111 (1) and (2) come into force on the later of the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force and the 60th day after the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

SCHEDULE 9
MINISTRY OF GOVERNMENT AND CONSUMER SERVICES — REGISTRATION AND OTHER STATUTES

ARTHUR WISHART ACT (FRANCHISE DISCLOSURE), 2000

1 (1) Subclauses (a) (i) and (ii) of the definition of “franchise” in subsection 1 (1) of the *Arthur Wishart Act (Franchise Disclosure)*, 2000 are repealed and the following substituted:

- (i) the franchisor grants the franchisee the right to sell, offer for sale or distribute goods or services that are substantially associated with a trade-mark, trade name, logo or advertising or other commercial symbol that is owned by or licensed to the franchisor or the franchisor’s associate, and
- (ii) the franchisor or the franchisor’s associate has the right to exercise or exercises significant control over, or has the right to provide or provides significant assistance in, the franchisee’s method of operation, including building design and furnishings, locations, business organization, marketing techniques or training, or

(2) Subclause (b) (i) of the definition of “franchise” in subsection 1 (1) of the Act is amended by striking out “service mark”.

(3) Clause (b) of the definition of “franchise system” in subsection 1 (1) of the Act is amended by striking out “service mark”.

2 (1) Paragraph 4 of subsection 2 (3) of the Act is amended by striking out “service mark”.

(2) Paragraph 5 of subsection 2 (3) of the Act is repealed and the following substituted:

- 5. An arrangement arising from an agreement between a licensor and a single licensee to license a specific trade-mark, trade name, logo or advertising or other commercial symbol where the licence is the only one of its general nature and type to be granted by the licensor in Canada with respect to that trade-mark, trade name, logo or advertising or other commercial symbol.

3 (1) Clauses 5 (1) (a) and (b) of the Act are repealed and the following substituted:

- (a) the signing by the prospective franchisee of the franchise agreement or any other agreement relating to the franchise, other than an agreement described in subsection (1.1); and
- (b) the payment of any consideration by or on behalf of the prospective franchisee to the franchisor or franchisor’s associate relating to the franchise, excluding the payment of a deposit if it,
 - (i) does not exceed the prescribed amount,
 - (ii) is refundable without any deductions, and
 - (iii) is given under an agreement that in no way binds the prospective franchisee to enter into a franchise agreement.

(2) Section 5 of the Act is amended by adding the following subsections:

Exception

(1.1) Clauses (1) (a) and (5) (a) do not apply to an agreement if it only contains terms that,

- (a) require any information or material that may be provided to a prospective franchisee to be kept confidential;
- (b) prohibit the use of any information or material that may be provided to a prospective franchisee; or
- (c) designate a location, site or territory for a prospective franchisee.

Same

(1.2) Despite subsection (1.1), clauses (1) (a) and (5) (a) apply to an agreement if it contains terms that,

- (a) require information to be kept confidential or prohibit the use of information, if the information,
 - (i) is or comes into the public domain other than as a result of a contravention of the agreement,
 - (ii) is disclosed to any person other than as a result of a contravention of the agreement, or
 - (iii) is disclosed with the consent of all the parties to the agreement; or
- (b) prohibit the disclosure of information to an organization of franchisees, other franchisees of the same franchise system or a franchisee’s professional advisors.

(3) Clauses 5 (5) (a) and (b) of the Act are repealed and the following substituted:

- (a) the signing by the prospective franchisee of the franchise agreement or any other agreement relating to the franchise, other than an agreement described in subsection (1.1); and

(b) the payment of any consideration by or on behalf of the prospective franchisee to the franchisor or franchisor's associate relating to the franchise, excluding the payment of a deposit if it,

(i) does not exceed the prescribed amount,

(ii) is refundable without any deductions, and

(iii) is given under an agreement that in no way binds the prospective franchisee to enter into a franchise agreement.

(4) Section 5 of the Act is amended by adding the following subsection:

Contents of statement

(5.1) A statement of material change shall contain the information that is prescribed.

(5) Clause 5 (7) (b) of the Act is repealed and the following substituted:

(b) the grant of a franchise to a person for the person's own account or to a corporation that the person controls if the person,

(i) has been an officer or director of the franchisor or of the franchisor's associate for at least six months and is currently such an officer or director, or

(ii) was an officer or director of the franchisor or of the franchisor's associate for at least six months and not more than four months have passed since the person was such an officer or director;

(6) Clause 5 (7) (e) of the Act is repealed and the following substituted:

(e) the grant of a franchise to a person to sell goods or services within a business in which that person has an interest if the sales arising from those goods or services during the first year of operation of the franchise, as anticipated by the parties or that should be anticipated by the parties at the time the franchise agreement is entered into, do not exceed, in relation to the total sales of the business during that year, a prescribed percentage;

(7) Subclause 5 (7) (g) (i) of the Act is repealed and the following substituted:

(i) the prospective franchisee is required to make a total initial investment, determined in the prescribed manner, of an amount that does not exceed a prescribed amount,

(8) Clause 5 (7) (h) of the Act is repealed and the following substituted:

(h) the grant of a franchise if the prospective franchisee is required to make a total initial investment, determined in the prescribed manner, of an amount that is greater than a prescribed amount.

4 (1) Subsection 14 (1) of the Act is amended by adding the following clauses:

(a.1) prescribing an amount for the purpose of subclause 5 (1) (b) (i) or (5) (b) (i);

(f.1) prescribing the information to be included in a statement of material change for the purpose of subsection 5 (5.1);

(2) Clauses 14 (1) (h) and (i) of the Act are repealed and the following substituted:

(h) prescribing a manner or an amount for the purpose of subclause 5 (7) (g) (i) or clause 5 (7) (h);

CONDOMINIUM ACT, 1998

5 Subsection 5 (2) of the *Condominium Act, 1998*, as re-enacted by section 3 of Schedule 9 to the *Strong Action for Ontario Act (Budget Measures), 2012*, is amended by striking out "the regulations made under this Act" and substituting "the regulations".

LAND REGISTRATION REFORM ACT

6 Section 21 of the *Land Registration Reform Act* is repealed and the following substituted:

No writing or signature required

21 (1) Despite section 2 of the *Statute of Frauds Act*, section 9 of the *Conveyancing and Law of Property Act* or any other Act or rule of law, an electronic document is not required to be in writing or to be signed by the parties.

Same

(2) An electronic document that is not in writing or signed by the parties has the same effect for all purposes as a document that is in writing and is signed by the parties.

LAND TITLES ACT

7 Section 67 of the *Land Titles Act* is repealed and the following substituted:

Description of registered owner

67 Subject to section 64, no person, other than a corporation, may be shown as the registered owner of land or a charge unless the person is described by,

- (a) if the person has a single name, but no surname or first given name, the person's single name; or
- (b) if the person does not have a single name, the person's surname and first given name in full, followed by another given name, if any, in full.

PERSONAL PROPERTY SECURITY ACT

8 Subsection 7 (2) of the *Personal Property Security Act* is repealed and the following substituted:

Change of jurisdiction

(2) If a security interest to which subsection (1) applies is a perfected security interest under the law of the jurisdiction where the debtor is located, and if the jurisdiction where the debtor is located changes as a result of a change in a factor by which the location of the debtor is determined under subsection (3), the security interest continues perfected only until the earliest of,

- (a) 60 days after the day the jurisdiction where the debtor is located changed;
- (b) 15 days after the day the secured party learns that the jurisdiction where the debtor is located has changed; and
- (c) the day perfection ceases under the previously applicable law.

Application of subs. (2)

(2.1) For greater certainty, if a change in the jurisdiction where the debtor is located occurs on December 31, 2015 and the change is solely a result of the operation of subsections 7 (3), (4) and (5) of this Act, as they read on that day, and not a result of a change in a factor by which the location of the debtor is determined, subsection 7.2 (7) applies to the change instead of subsection (2) of this section.

9 Subsections 7.1 (6) and (7) of the Act are repealed and the following substituted:

Change of jurisdiction

(6) If a security interest to which subsection (5) applies is a perfected security interest under the law of the jurisdiction in which the debtor is located, and if the jurisdiction in which the debtor is located changes as a result of a change in a factor by which the location of the debtor is determined under subsection 7 (3), the security interest continues perfected only until the earliest of,

- (a) 60 days after the day the jurisdiction in which the debtor is located changed;
- (b) 15 days after the day the secured party learns that the jurisdiction in which the debtor is located has changed; and
- (c) the day perfection ceases under the previously applicable law.

Application of subs. (6)

(6.1) For greater certainty, if a change in the jurisdiction where the debtor is located occurs on December 31, 2015 and the change is solely a result of the operation of subsections 7 (3), (4) and (5) of this Act, as they read on that day, and not a result of a change in a factor by which the location of the debtor is determined, subsection 7.3 (6) applies to the change instead of subsection (6) of this section.

Same

(7) If a security interest to which clause (2) (b), (c) or (d) applies is a perfected security interest under the law of the jurisdiction of the issuer, securities intermediary or futures intermediary, as applicable, and if there is a change in the jurisdiction of the issuer, securities intermediary or futures intermediary, as determined under clause (3) (b) or (c) or subsection (4), the security interest continues perfected only until the earliest of,

- (a) 60 days after the day the jurisdiction of the issuer, securities intermediary or futures intermediary, as applicable, changed;
- (b) 15 days after the day the secured party learns that the jurisdiction of the issuer, securities intermediary or futures intermediary, as applicable, has changed; and
- (c) the day perfection ceases under the previously applicable law.

10 (1) The following provisions of section 7.2 of the Act are amended by striking out "the day subsection 3 (2) of Schedule E to the *Ministry of Government Services Consumer Protection and Service Modernization Act, 2006* comes into force" wherever that expression appears and substituting in each case "December 31, 2015":

1. The definition of "prior law" in subsection (1).

2. Subsection (2).
3. Subsection (3).
4. Subsection (6).
5. Subsection (9).
6. Subsection (10).
7. Subsection (12).

(2) Subsections 7.2 (7) and (8) of the Act are repealed and the following substituted:

Same

(7) In the case of a prior security interest that is a perfected security interest under prior law immediately before December 31, 2015,

- (a) if the jurisdiction where the debtor is located on that day, as determined under subsections 7 (3), (4) and (5) of this Act, as they read on that day, is different from the jurisdiction where the debtor was located as determined under prior law; and
- (b) if the difference is solely a result of the operation of subsections 7 (3), (4) and (5) and not a result of any change in a factor by which the location of the debtor is determined under subsection 7 (3),

the prior security interest continues perfected only until the earliest of the following:

1. The beginning of the day on December 31, 2020.
2. The beginning of the day perfection ceases under prior law.
3. The end of the day determined under subsection 7 (2), if the jurisdiction where the debtor is located on December 31, 2015, as determined under subsections 7 (3), (4) and (5) of this Act, changes after that day as a result of a change in a factor by which the location of the debtor is determined under subsection 7 (3).

Same

(8) If, on or after December 31, 2015 but before the earliest of the days referred to in paragraphs 1, 2 and 3 of subsection (7) of this section, a prior security interest referred to in subsection (7) is perfected in accordance with the applicable law as determined under this Act, the security interest shall be deemed to be continuously perfected from the day of its perfection under prior law.

11 (1) The following provisions of section 7.3 of the Act are amended by striking out “the day subsection 3 (2) of Schedule E to the *Ministry of Government Services Consumer Protection and Service Modernization Act, 2006* comes into force” wherever that expression appears and substituting in each case “December 31, 2015”:

1. The definition of “prior law” in subsection (1).
2. Subsection (2).
3. Subsection (3).

(2) Subsections 7.3 (6) and (7) of the Act are repealed and the following substituted:

Perfection

(6) In the case of a prior security interest that was perfected by registration and is a perfected security interest under prior law immediately before December 31, 2015,

- (a) if the jurisdiction in which the debtor is located on that day, as determined under subsections 7 (3), (4) and (5) of this Act, as they read on that day, is different from the jurisdiction where the debtor was located as determined under prior law; and
- (b) if the difference is solely a result of the operation of subsections 7 (3), (4) and (5) and not a result of any change in a factor by which the location of the debtor is determined under subsection 7 (3),

the prior security interest continues perfected only until the earliest of the following:

1. The beginning of the day on December 31, 2020.
2. The beginning of the day perfection ceases under prior law.
3. The end of the day determined under subsection 7.1 (6), if the jurisdiction in which the debtor is located on December 31, 2015, as determined under subsections 7 (3), (4) and (5) of this Act, changes after that day as a result of a change in a factor by which the location of the debtor is determined under subsection 7 (3).

Same

(7) If, on or after December 31, 2015 but before the earliest of the days referred to in paragraphs 1, 2 and 3 of subsection (6) of this section, a prior security interest referred to in subsection (6) is perfected in accordance with the applicable law as determined under this Act, the security interest shall be deemed to be continuously perfected from the day of its perfection under prior law.

12 The Act is amended by adding the following sections:**Deemed not likely to be misled by errors or omissions**

46.1 (1) For the purposes of subsection 46 (4), in the case of a financing statement or financing change statement in respect of collateral that is or includes a motor vehicle, as defined in the regulations, a reasonable person shall be deemed not likely to be misled materially, insofar as the security interest in the motor vehicle is concerned, by the fact that the statement has one or more errors or omissions described in subsection (2) of this section, if,

- (a) the motor vehicle's vehicle identification number is set out correctly in the designated place on the statement;
- (b) the statement sets out at least the name of one debtor and, if the debtor is a natural person, his or her date of birth; and
- (c) the statement otherwise substantially complies with the requirements that apply for the purposes of subsection 46 (1).

Errors or omissions to which subs. (1) applies

(2) The following are the errors or omissions to which subsection (1) applies:

1. Regarding any debtor named in the statement, the debtor's name is set out incorrectly or in a way that does not comply with the requirements that apply for the purposes of subsection 46 (1).
2. Regarding any debtor named in the statement who is a natural person, the date of birth of the debtor is set out incorrectly or in a way that does not comply with the requirements that apply for the purposes of subsection 46 (1).

Deemed likely to be misled by error or omission

46.2 For the purposes of subsection 46 (4), in the case of a financing statement or financing change statement in respect of collateral that is or includes a motor vehicle, as defined in the regulations, a reasonable person shall be deemed likely to be misled materially, insofar as the security interest in the motor vehicle is concerned, by any one or more of the following errors or omissions in the statement:

1. In the case where the motor vehicle is classified as consumer goods on the statement,
 - i. a vehicle identification number for the motor vehicle is not set out on the statement,
 - ii. a vehicle identification number for the motor vehicle is set out on the statement but not in the designated place, or
 - iii. a vehicle identification number for the motor vehicle is set out on the statement but is incorrect.
2. In the case where the motor vehicle is classified as equipment or inventory on the statement and the statement sets out a vehicle identification number for the motor vehicle even though that information is not required,
 - i. the vehicle identification number is not set out in the designated place on the statement, or
 - ii. the vehicle identification number that is set out is incorrect.

No limitation

46.3 Nothing in sections 46.1 and 46.2 affects the application of subsection 46 (4) in circumstances not described in sections 46.1 and 46.2.

REGISTRY ACT**13 Subsection 48 (2) of the *Registry Act* is repealed and the following substituted:****Description of grantee**

(2) An instrument shall not be registered unless every grantee who is not a corporation is described by,

- (a) if the grantee has a single name, but no surname or first given name, the grantee's single name; or
- (b) if the grantee does not have a single name, the grantee's surname and first given name in full, followed by another given name, if any, in full.

REPAIR AND STORAGE LIENS ACT

14 Section 9 of the *Repair and Storage Liens Act* is amended by adding the following subsections:

Deemed not likely to be misled by errors or omissions

(3) For the purposes of subsection (2), in the case of a claim for lien or change statement in respect of a motor vehicle or in respect of two or more articles that include a motor vehicle, a reasonable person shall be deemed not likely to be misled materially, insofar as the lien against the motor vehicle is concerned, by the fact that the claim for lien or change statement has one or more errors or omissions described in subsection (4), if,

- (a) the motor vehicle's vehicle identification number is set out correctly in the designated place on the claim for lien or change statement;
- (b) the claim for lien or change statement sets out at least the name of one debtor and, if the debtor is a natural person, his or her date of birth; and
- (c) the claim for lien or change statement otherwise substantially complies with the requirements that apply for the purposes of subsection (1).

Errors or omissions to which subs. (3) applies

(4) The errors or omissions to which subsection (3) applies are:

- 1 Regarding any debtor named in the claim for lien or change statement, the debtor's name is set out incorrectly or in a way that does not comply with the requirements that apply for the purposes of subsection (1).
- 2 Regarding any debtor named in the claim for lien or change statement who is a natural person, the date of birth of the debtor is set out incorrectly or in a way that does not comply with the requirements that apply for the purposes of subsection (1).

Deemed likely to be misled by error or omission

(5) For the purposes of subsection (2), in the case of a claim for lien or change statement in respect of a motor vehicle or in respect of two or more articles that include a motor vehicle, a reasonable person shall be deemed likely to be misled materially, insofar as the lien against the motor vehicle is concerned, by any one or more of the following errors or omissions in the claim for lien or change statement:

- 1 A vehicle identification number for the motor vehicle is not set out on the claim for lien or change statement.
- 2 A vehicle identification number for the motor vehicle is set out on the claim for lien or change statement but not in the designated place.
- 3 A vehicle identification number for the motor vehicle is set out on the claim for lien or change statement but is incorrect.

No limitation

(6) Nothing in subsections (3), (4) and (5) affects the application of subsection (2) in circumstances not described in subsections (3), (4) and (5).

COMMENCEMENT

Commencement

15 (1) Subject to subsections (2) and (3), this Schedule comes into force on the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(2) Sections 3 and 4 come into force on a day to be named by proclamation of the Lieutenant Governor.

(3) Section 5 comes into force on the day section 3 of Schedule 9 to the *Strong Action for Ontario Act (Budget Measures), 2012* comes into force.

SCHEDULE 10
MINISTRY OF MUNICIPAL AFFAIRS

MUNICIPAL ELECTIONS ACT, 1996

1 Subsections 88.33 (5) and (6) of the *Municipal Elections Act, 1996* are repealed and the following substituted:

Notice of meetings

(5) Reasonable notice of the meetings of the committee under this section shall be given to the candidate, the applicant and the public.

Open meetings

(5.1) The meetings of the committee under this section shall be open to the public, but the committee may deliberate in private.

Same

(6) Subsection (5.1) applies despite sections 207 and 208.1 of the *Education Act*.

2 Subsections 88.34 (9) and (10) of the Act are repealed and the following substituted:

Notice of meetings

(9) Reasonable notice of the meetings of the committee under subsection (8) shall be given to the contributor, the applicable candidate and the public.

Open meetings

(9.1) The meetings of the committee under subsection (8) shall be open to the public, but the committee may deliberate in private.

Same

(10) Subsection (9.1) applies despite sections 207 and 208.1 of the *Education Act*.

3 Subsection 88.36 (6) of the Act is repealed and the following substituted:

Notice of meetings

(6) Reasonable notice of the meetings of the committee under subsection (5) shall be given to the contributor, the registered third party and the public.

Open meetings

(6.1) The meetings of the committee under subsection (5) shall be open to the public, but the committee may deliberate in private.

COMMENCEMENT

4 (1) Subject to subsection (2), this Schedule comes into force on the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(2) Sections 2 and 3 come into force on the later of the day section 65 of the *Municipal Elections Modernization Act, 2016* comes into force and the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

SCHEDULE 11 ACCESSIBILITY AMENDMENTS

ABSCONDING DEBTORS ACT

1 (1) Subsection 16 (1) of the *Absconding Debtors Act* is amended by striking out “and a bill of sale in the Form to this Act” and substituting “and a bill of sale in the form prescribed by regulation under subsection (3)”.

(2) Section 16 of the Act is amended by adding the following subsection:

Regulations, bill of sale form

(3) The Minister responsible for the administration of this Act may make regulations prescribing the form of a bill of sale for the purposes of subsection (1).

2 The Form to the Act is repealed.

BAIL ACT

3 (1) Section 1 of the *Bail Act* is amended by striking out “(Form 1)”.

(2) Section 1 of the Act is amended by adding the following subsection:

Form of certificate

(2) The certificate of lien shall be in the form prescribed by regulation under this Act.

4 (1) Section 7 of the Act is amended by striking out “(Form 2)”.

(2) Section 7 of the Act is amended by adding the following subsection:

Form of certificate

(2) The certificate of discharge shall be in the form prescribed by regulation under this Act.

5 The Act is amended by adding the following section:

Regulations

9 The Minister responsible for the administration of this Act may make regulations prescribing forms for the purposes of this Act and providing for their use.

6 Forms 1 and 2 of the Act are repealed.

COURTS OF JUSTICE ACT

7 Section 1.1 of the *Courts of Justice Act* is repealed and the following substituted:

References to former names of courts

In English

1.1 (1) A reference in the English version of an Act, rule or regulation to a court or official by the former name of that court or the former title of that official set out in Column 1 of the following table or by a shortened version of that name or title is deemed, unless a contrary intention appears, to be a reference to the new name of that court or the new title of that official set out in Column 2.

TABLE

Column 1 Former names and titles	Column 2 New names and titles
Ontario Court of Justice	Court of Ontario
Ontario Court (General Division)	Superior Court of Justice
Ontario Court (Provincial Division)	Ontario Court of Justice
Chief Justice of the Ontario Court of Justice	Chief Justice of the Superior Court of Justice
Associate Chief Justice of the Ontario Court of Justice	Associate Chief Justice of the Superior Court of Justice
Associate Chief Justice (Family Court) of the Ontario Court of Justice	Associate Chief Justice (Family Court) of the Superior Court of Justice
Chief Judge of the Ontario Court (Provincial Division)	Chief Justice of the Ontario Court of Justice
Associate Chief Judge of the Ontario Court (Provincial Division)	Associate Chief Justice of the Ontario Court of Justice
Associate Chief Judge-Co-ordinator of Justices of the Peace	Associate Chief Justice Co-ordinator of Justices of the Peace
Accountant of the Ontario Court	Accountant of the Superior Court of Justice

In French

(2) A reference in the French version of an Act, rule or regulation to a court or official by the former name of that court or the former title of that official set out in Column 1 of the following table or by a shortened version of that name or title is deemed, unless a contrary intention appears, to be a reference to the new name of that court or the new title of that official set out in Column 2.

TABLE

Column 1 Former names and titles	Column 2 New names and titles
Cour de justice de l'Ontario	Cour de l'Ontario
Cour de l'Ontario (Division générale)	Cour supérieure de justice
Cour de l'Ontario (Division provinciale)	Cour de justice de l'Ontario
Juge en chef de la Cour de justice de l'Ontario	Juge en chef de la Cour supérieure de justice
Juge en chef adjoint de la Cour de justice de l'Ontario	Juge en chef adjoint de la Cour supérieure de justice
Juge en chef adjoint (Cour de la famille) de la Cour de justice de l'Ontario	Juge en chef adjoint (Cour de la famille) de la Cour supérieure de justice
Juge en chef de la Cour de l'Ontario (Division provinciale)	Juge en chef de la Cour de justice de l'Ontario
Juge en chef adjoint de la Cour de l'Ontario (Division provinciale)	Juge en chef adjoint de la Cour de justice de l'Ontario
Juge en chef adjoint-coordonnateur des juges de paix	Juge en chef adjoint et coordonnateur des juges de paix
Comptable de la Cour de l'Ontario	Comptable de la Cour supérieure de justice

Newer references to Ontario Court of Justice

(3) Subsections (1) and (2) do not apply to references to the Ontario Court of Justice enacted or made on or after April 19, 1999.

ESTATES ADMINISTRATION ACT

8 (1) Subsection 9 (1) of the *Estates Administration Act* is amended by striking out “in Form 1” and substituting “in the form prescribed by regulation under subsection (7)”.

(2) Subsection 9 (4) of the Act is amended by striking out “in Form 2” and substituting “in the form prescribed by regulation under subsection (7)”.

(3) Subsection 9 (5) of the Act is amended by striking out “in Form 3” at the end and substituting “in the form prescribed by regulation under subsection (7)”.

(4) Section 9 of the Act is amended by adding the following subsection:

Regulations, forms

(7) The Minister responsible for the administration of this Act may make regulations prescribing forms for the purposes of this section and providing for their use.

9 Forms 1, 2 and 3 of the Act are repealed.

FORESTRY WORKERS LIEN FOR WAGES ACT

10 The French version of the short title of the *Forestry Workers Lien for Wages Act* is repealed and the following substituted:

Loi sur le privilège garantissant le paiement du salaire des travailleurs forestiers

11 Subsections 5 (1) and (2) of the Act are repealed and the following substituted:

Claim of lien to be filed

(1) The person claiming the lien shall state the claim in writing in a claim of lien form, setting out briefly the nature of the claim, the amount claimed to be due and a description of the logs or timber upon which the lien is claimed.

Verified by affidavit

(2) The claim shall be verified by the affidavit of the claimant or of the solicitor or agent of the claimant.

Form

(2.1) The claim of lien and affidavit referred to in subsections (1) and (2) shall be in English or in French and shall be in a form approved by the Minister of Natural Resources and Forestry and published on a website maintained by the Government of Ontario.

12 Forms 1 and 2 of the Act are repealed.

INTERPROVINCIAL SUMMONSES ACT

13 (1) Subsection 2 (2) of the *Interprovincial Summonses Act* is amended by striking out “in the form set out in Schedule 2” and substituting “in the form prescribed by regulation under subsection (3)”.

(2) Section 2 of the Act is amended by adding the following subsection:

Regulations, form of certificate

(3) The Minister responsible for the administration of this Act may make regulations prescribing a form of the certificate for the purposes of subsection (2).

14 Subsection 5 (1) of the Act is amended by striking out “in the form set out in Schedule 2” in the portion after clause (b) and substituting “in the form prescribed under subsection 2 (3)”.

15 Schedule 2 to the Act is repealed.

LEGISLATIVE ASSEMBLY ACT

16 Section 59 of the *Legislative Assembly Act* is repealed and the following substituted:

Power of committees to examine on oath, affirmation

59 Any standing or special committee of the Assembly may require that facts, matters and things relating to the subject of inquiry be verified or otherwise ascertained by the oral examination of witnesses, and may examine witnesses on oath or affirmation, and for that purpose the chair or any member of the committee may administer the following oath or affirmation, in English or French:

“Do you solemnly swear (or affirm) that the evidence you shall give to this Committee touching the subject of the present inquiry shall be the truth, the whole truth, and nothing but the truth? So help you God. (omit this phrase in an affirmation)”

17 Section 101 of the Act is repealed and the following substituted:

Oath, affirmation of office

101 (1) Every employee of the Office of the Assembly shall, before any salary is paid to him or her, take and subscribe before the Speaker, the Clerk of the Legislative Assembly, or a person designated in writing by either of them, the following oath or affirmation of office and secrecy, in English or French:

“I,, do swear (or solemnly affirm) that I will faithfully discharge my duties as an employee of the Office of the Assembly and will observe and comply with the laws of Canada and Ontario, and, except as I may be legally required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being an employee of the Office of the Assembly. So help me God. (omit this phrase in an affirmation)”

Oath, affirmation of allegiance

(2) Every employee of the Office of the Assembly shall, before performing any duty as a member of the Office of the Assembly, take and subscribe before the Speaker or before the Clerk of the Legislative Assembly, or a person designated in writing by either of them, the following oath or affirmation of allegiance, in English or French:

“I,, do swear (or solemnly affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (or the reigning sovereign for the time being), her heirs and successors according to law. So help me God. (omit this phrase in an affirmation)”

18 Forms 1, 2 and 3 of the Act are repealed.

LOCAL HEALTH SYSTEM INTEGRATION ACT, 2006

19 Clause (f) of the French version of the Preamble to the *Local Health System Integration Act, 2006* is amended by striking out “respectent les exigences” and substituting “respecter les exigences”.

20 The Table to subsection 3 (1) of the Act is repealed and the following substituted:

TABLE
CORPORATIONS CONTINUED AS LOCAL HEALTH INTEGRATION NETWORKS

Item	Column 1 Name of corporation in English	Column 2 Name of corporation in French	Column 3 Date of incorporation	Column 4 Name of continued corporation in English	Column 5 Name of continued corporation in French
1	Central Health Integration Network	Réseau d'intégration des services de santé du Centre	June 2, 2005	Central Local Health Integration Network	Réseau local d'intégration des services de santé du Centre

2.	Central East Health Integration Network	Réseau d'intégration des services de santé du Centre-Est	June 2, 2005	Central East Local Health Integration Network	Réseau local d'intégration des services de santé du Centre-Est
3.	Central West Health Integration Network	Réseau d'intégration des services de santé du Centre-Ouest	June 9, 2005	Central West Local Health Integration Network	Réseau local d'intégration des services de santé du Centre-Ouest
4.	Health Integration Network of Champlain	Réseau d'intégration des services de santé de Champlain	June 2, 2005	Champlain Local Health Integration Network	Réseau local d'intégration des services de santé de Champlain
5.	Health Integration Network of Erie St. Clair	Réseau d'intégration des services de santé d'Érie St-Clair	June 2, 2005	Erie St. Clair Local Health Integration Network	Réseau local d'intégration des services de santé d'Érie St-Clair
6.	Health Integration Network of Hamilton Niagara Haldimand Brant	Réseau d'intégration des services de santé de Hamilton Niagara Haldimand Brant	June 2, 2005	Hamilton Niagara Haldimand Brant Local Health Integration Network	Réseau local d'intégration des services de santé de Hamilton Niagara Haldimand Brant
7.	Health Integration Network of Mississauga Halton	Réseau d'intégration des services de santé de Mississauga Halton	June 9, 2005	Mississauga Halton Local Health Integration Network	Réseau local d'intégration des services de santé de Mississauga Halton
8.	North East Health Integration Network	Réseau d'intégration des services de santé du Nord-Est	June 9, 2005	North East Local Health Integration Network	Réseau local d'intégration des services de santé du Nord-Est
9.	Health Integration Network of North Simcoe Muskoka	Réseau d'intégration des services de santé de Simcoe Nord Muskoka	June 9, 2005	North Simcoe Muskoka Local Health Integration Network	Réseau local d'intégration des services de santé de Simcoe Nord Muskoka
10.	Local Health Integration Network (North West Ontario)	Réseau d'intégration des services de santé (Nord-Ouest de l'Ontario)	June 16, 2005	North West Local Health Integration Network	Réseau local d'intégration des services de santé du Nord-Ouest
11.	South East Health Integration Network	Réseau d'intégration des services de santé du Sud-Est	June 9, 2005	South East Local Health Integration Network	Réseau local d'intégration des services de santé du Sud-Est
12.	South West Health Integration Network	Réseau d'intégration des services de santé du Sud-Ouest	June 2, 2005	South West Local Health Integration Network	Réseau local d'intégration des services de santé du Sud-Ouest
13.	Health Integration Network of Toronto Central	Réseau d'intégration des services de santé du Centre-Toronto	June 2, 2005	Toronto Central Local Health Integration Network	Réseau local d'intégration des services de santé du Centre-Toronto
14.	Health Integration Network of Waterloo Wellington	Réseau d'intégration des services de santé de Waterloo Wellington	June 2, 2005	Waterloo Wellington Local Health Integration Network	Réseau local d'intégration des services de santé de Waterloo Wellington

MORTGAGES ACT

21 Subsection 26 (1) of the *Mortgages Act* is amended by striking out “in the Form to this Act” and substituting “in the form prescribed by the regulations made under this Act”.

22 Subsection 31 (1) of the Act is amended by striking out “in the Form to this Act” in the portion before paragraph 1 and substituting “in the form prescribed by the regulations made under this Act”.

23 The French version of subsection 47 (8) of the Act is amended by striking out “selon la formule prescrite par les règlements pris en application de la présente loi” at the end and substituting “selon le formulaire prescrit par les règlements pris en vertu de la présente loi”.

24 Section 58 of the Act is amended by striking out “the form of notice described in subsection 47 (8)” at the end and substituting “forms for the purposes of this Act and providing for their use”.

25 The Form to the Act is repealed.

MUNICIPAL ACT, 2001

26 The Table to section 11 of the *Municipal Act, 2001* is repealed and the following substituted:

TABLE

Item	Sphere of Jurisdiction	Part of Sphere Assigned	Upper-tier Municipality (ies) to which Part of Sphere Assigned	Exclusive or Non-Exclusive Assignment
1	Highways, including parking and traffic on highways	Whole sphere	All upper-tier municipalities	Non-exclusive
2a.	Transportation systems, other than highways	Airports	All upper-tier municipalities	Non-exclusive
2b.	Transportation systems, other than highways	Ferries	All upper-tier municipalities	Non-exclusive
2c	Transportation systems, other than highways	Disabled passenger transportation systems	Peel, Halton	Non-exclusive
2d	Transportation systems, other than highways	Whole sphere, except airports and ferries	Waterloo, York	Exclusive
3	Waste management	Whole sphere, except waste collection	Durham, Halton, Lambton, Oxford, Peel, Waterloo, York	Exclusive
4a	Public utilities	Sewage treatment	All counties, Niagara, Waterloo, York	Non-exclusive
4b	Public utilities	Sewage treatment	Durham, Halton, Muskoka, Oxford, Peel	Exclusive
4c	Public utilities	Collection of sanitary sewage	All counties, Niagara, Waterloo, York	Non-exclusive
4d	Public utilities	Collection of sanitary sewage	Durham, Halton, Muskoka, Oxford, Peel	Exclusive
4e	Public utilities	Collection of storm water and other drainage from land	All upper-tier municipalities	Non-exclusive
4f.	Public utilities	Water production, treatment and storage	All upper-tier municipalities except counties	Exclusive
4g	Public utilities	Water distribution	Niagara, Waterloo, York	Non-exclusive
4h	Public utilities	Water distribution	Oxford, Durham, Halton, Muskoka, Peel	Exclusive
5	Culture, parks, recreation and heritage	Whole sphere	All upper-tier municipalities	Non-exclusive
6	Drainage and flood control, except storm sewers	Whole sphere	All upper-tier municipalities	Non-exclusive
7	Structures, including fences and signs	Whole sphere, except fences and signs	Oxford	Non-exclusive
8	Parking, except on highways	Municipal parking lots and structures	All upper-tier municipalities	Non-exclusive
9	Animals	None	None	Not assigned
10a	Economic development services	Promotion of the municipality for any purpose by the collection and dissemination of information	Durham	Exclusive
10b	Economic development services	Promotion of the municipality for any purpose by the collection and dissemination of information	All counties, Halton, Muskoka, Niagara, Oxford, Peel, Waterloo, York	Non-exclusive
10c	Economic development services	Acquisition, development and disposal of sites for industrial, commercial and institutional uses	Durham	Exclusive
10d	Economic development services	Acquisition, development and disposal of sites for industrial, commercial and institutional uses	Halton, Lambton, Oxford, Waterloo	Non-exclusive
11a.	Business licensing	Owners and drivers of taxicabs, tow trucks, buses and vehicles (other than motor vehicles) used for hire Taxicab brokers Salvage business Second-hand goods business	Niagara, Waterloo	Exclusive
11b	Business licensing	Drainage business, plumbing business	York	Exclusive
11c	Business licensing	Lodging houses, septic	York	Non-exclusive

	tank business		
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NORTHERN SERVICES BOARDS ACT

27 Subsection 3 (4) of the *Northern Services Boards Act* is repealed and the following substituted:

Notice

(4) A person calling a meeting under this section shall prepare a notice of the meeting in English and in French setting out.

- (a) the purpose of the meeting and a description or drawing of the proposed Board area;
- (b) the place, date and time of the meeting;
- (c) the proposed name for the proposed Board;
- (d) a statement that a vote will be held at the meeting; and
- (e) the date of the notice and the signature of the person calling the meeting.

How notice is given

(4.1) The person calling the meeting shall.

- (a) post the notice of the meeting in at least six conspicuous places in the proposed Board area;
- (b) send the notice by mail and by electronic mail to the Minister; and
- (c) if available, publish the notice in a newspaper having general circulation in the proposed Board area or on a website maintained for the purposes of communicating to a group of persons that includes the inhabitants in the proposed Board area.

Date of meeting

(4.2) The date of the meeting set out in the notice of the meeting shall be at least 14 days from the date of the last posting or mailing of the notice, whichever occurs later.

28 Section 20 of the Act is repealed and the following substituted:

Challenge to eligibility

20 (1) If the eligibility to vote or to seek office of any inhabitant is challenged at an election meeting, the chair shall require the inhabitant to make a declaration, in English or in French, that he or she is an inhabitant as defined in section 1.

Making of declaration

(2) A declaration under subsection (1) shall be made before a commissioner for taking affidavits, a notary public or the secretary and, for the purpose of the election meeting, the secretary is empowered to take such declarations.

Effect of declaration

(3) An inhabitant who makes a declaration under subsection (1) is eligible to vote or to seek office.

29 Forms 1 and 2 of the Act are repealed.

REPAIR AND STORAGE LIENS ACT

30 Subsection 14 (1) of the *Repair and Storage Liens Act* is repealed and the following substituted:

Seizure of article

(1) A lien claimant who has a non-possessory lien and who has registered a claim for lien may deliver at any time to the sheriff for the area in which the article is located,

- (a) a copy of the registered claim for lien; and
- (b) a direction to seize the article, in the prescribed form.

31 Section 23 of the Act is amended by adding the following subsection:

Form of application

(3) An application under subsection (1) to the Small Claims Court shall be in the prescribed form.

32 (1) Subsection 24 (3) of the Act is amended by striking out "required form" and substituting "prescribed form".

(2) Subsection 24 (5) of the Act is repealed and the following substituted:

Initial certificate

(5) Where money is paid into court or a deposit is made with the court under subsection (4), the clerk or registrar of the court shall issue an initial certificate in the prescribed form and under the seal of the court stating that the amount indicated in the initial certificate, or security for that amount, has been paid into or deposited with the court to the credit of the application and, where applicable, indicating the portion of that amount that is offered in settlement of the dispute.

(3) Subsection 24 (6) of the Act is amended by striking out “required form” at the end and substituting “prescribed form”.

(4) Subsection 24 (7) of the Act is repealed and the following substituted:

Final certificate

(7) Where an objection has been filed with the court, the applicant may pay the additional amount claimed as owing in the objection into court to the credit of the application or deposit security for that amount with the court to the credit of the application and, where the additional amount has been paid into court or the additional security has been deposited with the court, the clerk or registrar shall issue a final certificate in the prescribed form and under the seal of the court.

(5) Subsection 24 (9) of the Act is amended by adding “in the prescribed form” after “writ of seizure”.

(6) Subsection 24 (11) of the Act is amended by striking out “required form” wherever it appears and substituting in each case “prescribed form”.

(7) The English version of subsection 24 (13) of the Act is amended by striking out “posted” and substituting “deposited”.

(8) The English version of subsection 24 (14) of the Act is amended by striking out “posted” and substituting “deposited”.

(9) The English version of subsection 24 (15) of the Act is amended by striking out “posted” and substituting “deposited”.

33 If subsection 4 (1) of Schedule 52 to the *Strong Action for Ontario Act (Budget Measures), 2012* has not come into force on or before the day this section comes into force, clause 31.1 (1) (b) of the Act is repealed and the following substituted:

- (b) specifying forms other than those referred to in clause 33 (a), the information to be contained in such forms, the manner of recording the information, including the manner of setting out names, and the persons who shall sign such forms;

34 Clause 31.2 (1) (a) of the Act is repealed and the following substituted:

- (a) specifying information to be contained in forms other than those referred to in clause 33 (a), the manner of setting out the information, including names, and the persons who shall sign such forms;

35 (1) Clause 32 (1) (b) of the Act is repealed.

(2) Clause 32 (1) (c) of the Act is amended by adding “other than matters with respect to which the Minister is authorized by section 33 to make regulations” at the end.

(3) Section 32 of the Act is amended by adding the following subsection:

Saving

(5) Regulations made by the Lieutenant Governor in Council under clause 32 (a) or (b), as those clauses read immediately before December 18, 1998, continue until they are revoked.

36 The Act is amended by adding the following section:

Regulations by Minister

33 The Minister responsible for the administration of this Act may make regulations,

- (a) prescribing forms for each of the following items, the information to be contained in each form, the manner of recording the information, including the manner of setting out names, and the persons who shall sign each form
 - (i) a direction to seize an article under subsection 14 (1),
 - (ii) an application to the Small Claims Court under section 23,
 - (iii) an application under section 24,
 - (iv) an initial certificate under subsection 24 (5),
 - (v) a notice of objection by a respondent under subsection 24 (6),
 - (vi) a final certificate under subsection 24 (7),

- (vii) a writ of seizure under subsection 24 (9),
 - (viii) a receipt under subsection 24 (11) for an article that a respondent releases to an applicant in compliance with an initial or final certificate,
 - (ix) a receipt under subsection 24 (11) for an article that is seized by a sheriff or bailiff under a writ of seizure, and
 - (x) a waiver of further claim under subsection 24 (11);
- (b) prescribing the types of security that may be deposited with a court under section 24 and prescribing a form for each type of security, the information to be contained in each form, the manner of recording the information, including the manner of setting out names, and the persons who shall sign each form.

37 Subsections 268 (2) and (3) of Schedule E to the *Red Tape Reduction Act, 1998* are repealed.

SMOKE-FREE ONTARIO ACT

38 The French version of paragraph 7 of subsection 9 (2) of the *Smoke-Free Ontario Act* is repealed and the following substituted:

7. Les lieux ou endroits prescrits.

39 The French version of subsection 14 (16) of the Act is amended by striking out “ou de fournir à l’inspecteur” and substituting “ou fournir à l’inspecteur”.

40 The Table to section 15 of the Act is amended by,

- (a) adding a numbered item column to the left of Column 1; and
- (b) adding “not applicable” in every blank cell.

COMMENCEMENT

Commencement

41 (1) Subject to subsections (2) and (3), this Schedule comes into force on the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(2) Section 34 comes into force on the later of the day section 5 of Schedule 52 to the *Strong Action for Ontario Act (Budget Measures), 2012* comes into force and the day the *Cutting Unnecessary Red Tape Act, 2017* receives Royal Assent.

(3) Sections 1 to 6, 8 and 9, 13 to 15 and 21 to 25 come into force on a day to be named by proclamation of the Lieutenant Governor.

EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 154 and does not form part of the law.
Bill 154 has been enacted as Chapter 20 of the Statutes of Ontario, 2017.*

The Bill is part of a government initiative to cut unnecessary red tape.

The Bill amends or repeals a number of Acts and enacts a number of new Acts. For convenience, the amendments, repeals and new Acts are set out in separate Schedules. Schedules with the name of Ministries include amendments to and repeals of Acts that are administered by the Ministry involved or that affect that Ministry. The commencement provisions for each of the Schedules are set out in the Schedules.

SCHEDULE 1

MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS

Farming and Food Production Protection Act, 1998

The Schedule amends the Act to provide that more than one vice-chair of the Normal Farm Practices Protection Board may be designated from among the members of the Board.

SCHEDULE 2

MINISTRY OF THE ATTORNEY GENERAL

Charities Accounting Act

The Schedule amends the Act to add new sections 10.2 to 10.4, which provide authority for a trustee to whom the Act applies to apply or use the trust property to make social investments. Section 10.2 sets out the characteristics of a social investment and provides other interpretive guidance. Section 10.3 sets out the power to make social investments with trust property, but specifies that the power may be restricted or excluded by the terms of the trust. Section 10.4 places duties on trustees who make social investments with trust property, including a requirement to consider whether advice respecting the social investment should be sought and, if so, to obtain and consider the advice. Subsection 10.4 (5) provides that the duties set out in the section may not be restricted or excluded by the terms of the trust.

Section 10.1 of the Act is amended consequentially to take into account the new social investment provisions.

Courts of Justice Act

The Schedule amends section 47 of the Act to specify the application of the section to provincial judges appointed after having reached 65 years of age. In addition, a new complaints and discipline process respecting the Small Claims Court Administrative Judge is set out by way of amendments to section 87.2 and the addition of a new section 87.3.

Finally, the Schedule amends the Act to allow certain orders to pay tariff costs under the Agreement on Internal Trade, the Canadian Free Trade Agreement and other prescribed domestic trade agreements to be made orders of the Superior Court of Justice for the purpose of enforcement.

Interjurisdictional Support Orders Act, 2002

The Schedule makes various amendments to the Act. Some of the more significant amendments are set out below.

The concept of ordinary residence is replaced with habitual residence throughout the English version of the Act. The definition of "support order" is expanded to, in particular circumstances, include the calculation or recalculation by an administrative body of the payment of support for a child. A support order and a support variation order shall now specify the law applied in making the order or the order is deemed to have been made under Ontario law.

In determining a child's entitlement to support under section 13, and in determining a child's entitlement to receive or continue to receive support under section 35, the Ontario court now first applies Ontario law, but if the child is not entitled to support under Ontario law, the court applies the law of the jurisdiction in which the child is habitually resident. In determining the amount of support for a child under section 35, the Ontario court now applies Ontario law, rather than the law of the jurisdiction where the person liable to pay the support resides.

The rules for varying a support order in section 39 of the Act now apply to all support orders made or registered in Ontario under the Act, rather than only those registered in Ontario under Part III.

International Interests in Mobile Equipment Act (Aircraft Equipment), 2002

The Schedule amends the French version of Schedule 1 to the Act to update the language of the Convention on International Interests in Mobile Equipment to adhere to the official French version of the Convention. The Schedule also amends the French version of the title of the annex in Schedule 2 to the Act to note that it is the annex referred to in Article XIII of the Protocol to the Convention on International Interests in Mobile Equipment in Matters Specific to Aircraft Equipment.

Juries Act

The Schedule amends the Act to reflect the fact that the jury service notice and return to jury service notice forms have been amalgamated into a single jury questionnaire form that is received by, and is required to be returned to a sheriff, completed, by potential jurors. Subsection 6 (5) of the Act is re-enacted to permit the completed jury questionnaire to be returned to the sheriff by an electronic method specified in the questionnaire, if any, as well as to extend the deadline for returning the questionnaire from five to 30 days.

In addition, section 19 of the Act is amended to permit a sheriff to provide summons to a juror in electronic format, if the juror consents. Section 27 of the Act is amended to replace a graphic representation of the requisite card with a textual description of the requirements.

Finally, housekeeping amendments are made:

1. The French translation of “correctional institution” in paragraph 6 of subsection 3 (1) of the Act is updated.
2. The reference in subsection 6 (1) of the Act to “first class” mail is removed.

Justices of the Peace Act

The Schedule amends section 6 of the Act to specify the application of the section to justices of the peace appointed after having reached 65 years of age. In addition, section 13.1 of the Act is amended to create authority for the Chief Justice of the Ontario Court of Justice to delegate his or her powers under that section.

Notaries Act

The Schedule amends the Act to remove the requirement for a notary public to be a Canadian citizen.

Provincial Offences Act

The Schedule amends the Act to allow the Chief Justice of the Ontario Court of Justice to delegate his or her authority to determine that a presiding justice is unable to continue a trial.

**SCHEDULE 3
REPEAL OF THE EMPLOYERS AND EMPLOYEES ACT*****Employers and Employees Act***

The Schedule repeals the Act and makes consequential amendments to two other Acts to reflect the repeal.

**SCHEDULE 4
REDUCING REGULATORY COSTS FOR BUSINESS ACT, 2017*****Reducing Regulatory Costs for Business Act, 2017***

The Schedule enacts a new Act which provides various measures in the interest of reducing regulatory costs for business.

When a regulation governed by the Act is made or approved and has the effect of creating or increasing administrative costs to business, an offset must be made within a prescribed time.

An analysis that assesses the potential impact of what is proposed must be conducted where regulations governed by the Act are made or approved, and the analysis must be published. Less onerous regulatory requirements for small businesses are to be implemented where appropriate.

Where appropriate, recognized standards are to be adopted when developing or amending regulations.

Businesses required to provide documents to ministries as a result of a regulation will have the option to transmit those documents electronically.

Businesses that demonstrate excellent compliance with regulatory requirements are to be recognized by the Government.

**SCHEDULE 5
MINISTRY OF THE ENVIRONMENT AND CLIMATE CHANGE*****Environmental Protection Act***

The Schedule replaces the definitions of “Minister” and “Ministry” in the Act.

Pesticides Act

The Schedule makes various amendments to the Act. Some of the more significant amendments are set out below.

The Schedule replaces the definitions of “Minister” and “Ministry” in the Act and adds a definition of “public servant”. The six-month limit on how long a person shall serve as an assistant to the holder of a licence to perform structural exterminations is repealed, as is the seven-day limit on how long a person shall serve as an assistant to the holder of a licence to perform land exterminations or water exterminations.

The Schedule changes the conditions that must be met before the Director may refuse to issue or renew a licence under section 11 of the Act. The Schedule expands the list of reasons set out in subsection 11 (3) of the Act for which the Director may refuse to issue a permit, cancel a permit, impose terms and conditions on a permit or alter the terms and conditions of a permit. The notice requirement set out in subsection 13 (8) of the Act now also applies when the Director issues a permit subject to a term or condition.

Where the Director refuses to issue or cancels a permit or imposes or alters a term or condition in a permit that has been issued, the permittee now has seven days to make submissions for reconsideration, rather than fifteen. The Director now has seven days to reconsider the decision after receiving the submissions, rather than three.

In a designation of a provincial officer under section 17 of the Act, the Minister may now limit the authority of the officer in the manner that the Minister considers necessary or advisable.

SCHEDULE 6

MINISTRY OF GOVERNMENT AND CONSUMER SERVICES – CORPORATE AMENDMENTS

Similar Amendments to various Corporate Acts

The Schedule makes amendments of an administrative nature to the following Acts to ensure consistent wording: the *Business Corporations Act*, the *Business Names Act*, the *Corporations Information Act*, the *Extra-Provincial Corporations Act* and the *Limited Partnerships Act*.

The definition of Minister does not name a specific Minister, but refers to the minister who is made responsible for the administration of the Act under the *Executive Council Act*.

The Schedule makes changes throughout each Act to accommodate the filing, keeping and searching of documents in electronic format. In the *Business Corporations Act*, the *Corporations Information Act* and the *Extra-Provincial Corporations Act*, the powers are those of the Director. In the *Business Names Act* and the *Limited Partnerships Act*, the powers are those of the Registrar. The changes include the following:

1. Persons may search the records maintained by the Ministry by any method approved by the Director or Registrar and obtain copies of documents in the records.
2. The Director or Registrar, as applicable, may specify methods for the execution of documents other than by signing them.
3. The electronic version of a document in the records maintained by the Ministry prevails in the event of inconsistencies between different versions of a document.
4. With specified exceptions, the Director or Registrar, as applicable, may accept a copy of a notice or other document required to be sent to that person, including an electronic copy.
5. The definition of “telephonic or electronic means” allows for communication by new technologies without their having to be authorized by regulation.

The Director or Registrar receives new powers, including the following:

1. The power to establish requirements in respect of the content, form, format and filing of the various documents required to be prepared or filed under the Act, including court orders, and the form, format and payment of fees.
2. The power to establish requirements in respect of the signing or other execution of documents.
3. The power to determine whether or not any document may be filed by fax.
4. The power to assign corporation numbers. For the *Limited Partnerships Act*, this is done under the *Business Names Act*.
5. The power to issue documents by any method.
6. The power to use or issue validation codes or other systems or methods of validation on issued documents. For the *Limited Partnerships Act*, this is done under the *Business Names Act*.
7. The power to make available to the public any notices or other documents sent by the Director or Registrar, as applicable, under the Act.
8. The power, with specified exceptions, to make available to the public any documents that the Act, a regulation made under the Act or the Director or Registrar, as applicable, requires be sent to the Director or Registrar, as applicable.
9. The power to require the use of forms that the Director or Registrar, as applicable, approves.
10. Powers to exercise if an inability arises, for any reason, to receive filings in an electronic system or to issue documents.

The Schedule expands the Minister's regulation-making powers. They include the making of regulations in respect of the content, form, format and filing of various documents.

The Minister or a person designated by the Minister receives the power to enter into agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Director or Registrar, as applicable, or other government official.

The Minister may prescribe, by regulation, additional documents and information that are required in support of the various documents required to be filed under the Act. The regulation may specify whether the supporting documents and information are to be filed with the Director or the Registrar, as applicable, or are to be retained and filed with that person, or given to another specified person, at a later date on notice from the Director or the Registrar, as applicable. The regulation may permit the Director or the Registrar, as applicable, to require different filing obligations for any of the prescribed supporting documents and information or for documents required by the Act to be filed.

Business Corporations Act

The Schedule makes other amendments to the Act in addition to those that are common to the five corporate Acts as described above.

The appointment of the Director under the Act is made mandatory, rather than permissive. The Director may delegate the Director's powers to any person, subject to any restrictions set out in the delegation.

The definition of "endorse" includes electronic actions. The Director may issue corrected documents.

New subsections 5 (2.2) and 119 (12) authorize the Director, at any time, to require that a copy of certain directors' consents be filed with the Director.

Section 180 currently addresses the continuance of corporations from other jurisdictions to the Act. The Schedule amends section 180 to also address the continuance from the *Corporations Act* to the *Business Corporations Act* of social companies within the meaning of the *Corporations Act*, as provided for in new section 2.1 of that Act.

New section 181.2 addresses the continuance of corporations governed by the Act to the *Not-for-Profit Corporations Act, 2010*, as provided for in section 115 of that Act. The Schedule amends section 185 to extend the rights of dissenting shareholders in respect of a corporation seeking continuance from the Act to the *Not-for-Profit Corporations Act, 2010* under new section 181.2 or to the *Co-operative Corporations Act* under section 181.1.

The Schedule amends subsection 99 (2) to require a corporation that receives notice of a proposal from a shareholder to include the proposal in a management information circular or, if the corporation does not provide a management information circular, in the notice of meeting for the shareholders' meeting at which the proposal is to be discussed.

Under new clauses 99 (5) (a) and (a.1), a corporation is exempt from the obligation to send a proposal to shareholders in the manner required by subsection 99 (2) in advance of the meeting at which the proposal is to be discussed if notice of the proposal is submitted to the corporation less than a set minimum number of days before the meeting or the anniversary date of the last annual meeting. For offering corporations, the minimum number of days is 60. For non-offering corporations, the minimum number of days is to be determined under the new subsection 99 (5.1).

Under the new subsection 99 (5.2), if a non-offering corporation receives notice of a proposal to be raised at a shareholders' meeting and is not exempt from the obligation to send the proposal to shareholders in the manner required by subsection 99 (2), but the notice of the proposal is received after the corporation has already sent notice of the shareholders' meeting, the corporation must send the proposal to the persons entitled to notice of the shareholders' meeting not less than 10 days before the meeting. A corporation that complies with subsection 99 (5.2) is deemed by subsection 99 (5.3) to have complied with subsection 99 (2).

Clause 99 (5) (d) currently exempts a corporation from the obligation to send a proposal to shareholders in the manner required by subsection 99 (2) in advance of the meeting at which the proposal is to be discussed, if substantially the same proposal was defeated at a shareholders' meeting held within two years preceding the receipt of the shareholder's new proposal. The Schedule amends this clause so that it applies if substantially the same proposal was discussed at a shareholders' meeting held within five years preceding the receipt of the shareholder's new proposal and the proposal received less than the minimum amount of support required under subsection 99 (5.4). New subsection 99 (5.4) provides that the minimum amount of support the proposal must have received at the previous meeting is 3 per cent, 6 per cent or 10 per cent of the total number of shares voted at that meeting, depending on whether the previous meeting was the first, second or third time that a substantially similar proposal was made at a meeting of shareholders within the five-year period.

The Schedule makes consequential amendments to other portions of section 99.

Business Names Act

The Schedule makes other amendments to the Act in addition to those that are common to the five corporate Acts as described above.

The Registrar appointed under the Act has the authority to act under both the Act and the *Limited Partnerships Act*. The Registrar may delegate the Registrar's powers to any person under the Act or under the *Limited Partnerships Act*, subject to any restrictions set out in the delegation.

Business Regulation Reform Act, 1994

The Schedule provides that a Minister may require a business that interacts with the Minister to provide the Minister with the business' business information (name, contact information, etc.), if there is an inter-Ministerial agreement relating to that kind of interaction. The information is centralized within the provincial government and may be shared with the federal government.

The Schedule also makes technical and related amendments.

Corporations Information Act

The Schedule makes other amendments to the Act in addition to those that are common to the five corporate Acts as described above.

Amendments to the Act give various administrative powers under the Act to the Director who is appointed under the *Business Corporations Act*. The Minister and the Director may each delegate their respective duties and powers under the Act to any person, subject to any restrictions set out in the delegation.

New section 8.1 gives the Minister authority to enter prescribed information into the records maintained by the Ministry as if a corporation had filed a return or notice as required by the Act if the prescribed information or some of the prescribed information is received from a prescribed jurisdiction.

Extra-Provincial Corporations Act

The Schedule makes other amendments to the Act in addition to those that are common to the five corporate Acts as described above.

The Director may delegate the Director's powers to any person, subject to any restrictions set out in the delegation.

The definition of "endorse" includes electronic actions. The Director may issue corrected documents and may specify the date on issued documents.

Limited Partnerships Act

The Schedule makes other amendments to the Act in addition to those that are common to the five corporate Acts as described above.

The Schedule re-enacts section 19 to set out circumstances where a declaration of change in information is not required to be filed when the change was filed under another Act.

New section 6.1 gives the Registrar the power to refuse to accept for filing a name of a limited partnership that does not comply with the Act or the prescribed requirements.

**SCHEDULE 7
MINISTRY OF GOVERNMENT AND CONSUMER SERVICES —
CORPORATIONS ACT AND RELATED AMENDMENTS**

Corporations Act

The Schedule amends the Act to give various administrative powers under the Act to the Director who is appointed under the *Business Corporations Act* and transfers a number of powers from the Lieutenant Governor to the Minister. The Minister and the Director are given the power to delegate their respective duties and powers under the Act to any person, subject to any restrictions set out in the delegation.

The Schedule amends the Act to accommodate the filing, keeping and searching of documents in electronic format. This includes the following changes:

1. Providing for searches of the records maintained by the Ministry by any method approved by the Director and the obtaining of copies of documents in the records.
2. Permitting the Director to specify methods for the execution of documents other than by signing them.
3. Permitting the Director to issue corrected documents.
4. Providing that the electronic version of a document in the records maintained by the Ministry prevails in the event of inconsistencies between different versions of a document.
5. Providing that, with specified exceptions, the Minister may accept a copy of a notice or other document required to be sent to the Minister, including an electronic copy.

The definition of "telephonic or electronic means" allows for communication by new technologies without their having to be authorized by regulation.

The Director is given the following powers:

1. The power to establish requirements in respect of the content, form, format and filing of the various documents required to be prepared or filed under this Act, including court orders, and the form, format and payment of fees.
2. The power to establish requirements in respect of the signing or other execution of documents.
3. The power to determine whether or not any document may be filed by fax.
4. The power to assign corporation numbers.
5. The power to issue documents by any method.
6. The power to use or issue validation codes or other systems or methods of validation on issued documents.
7. The power to require the use of forms that the Director approves.
8. Powers to exercise if an inability arises, for any reason, to receive filings in an electronic system or to issue documents.

The Schedule expands the Minister's regulation-making powers. They include the making of regulations in respect of the content, form, format and filing of various documents. The Minister may prescribe, by regulation, additional documents and information that are required in support of the various documents required to be filed under the Act. The regulation may specify whether the supporting documents and information are to be filed with the Minister or are to be retained and filed with the Minister, or given to another specified person, at a later date on notice from the Director. The regulation may permit the Director to require different filing obligations for any of the prescribed supporting documents and information or for documents that the Act requires be filed.

New section 2.3 gives the Minister, or a person designated by the Minister, the power to enter into agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Director or other government official. Section 8, which currently authorizes the Minister or any person in the Ministry to take evidence under oath, is re-enacted to authorize the Minister, the Director, a public servant or a person who has entered into an agreement under new section 2.3 to do so.

The amendments to the Act that were made in Part XVI of the *Not-for-Profit Corporations Act, 2010* are moved from that Act to this Schedule, with some changes, as described below.

Social companies are defined as those that have objects in whole or in part of a social nature. Section 2 provides that the Act applies to social companies that are incorporated by or under a general or special Act and to corporations that are insurers. It also provides that the Act does not apply to corporations to which the *Business Corporations Act*, the *Co-operative Corporations Act* or the *Not-for-Profit Corporations Act, 2010* applies or to corporations incorporated for the construction and working of a railway, incline railway or street railway.

Twenty-five years after the new section 2 comes into force, it is amended so that the Act no longer applies to social companies that are incorporated by or under a general Act. It continues to apply to social companies that are incorporated by or under a special Act.

Section 2.1 is re-enacted to specify that if a social company has more than one class of shareholders, the special resolution passed by the corporation to authorize its continuance under the *Business Corporations Act*, the *Co-operative Corporations Act* or the *Not-for-Profit Corporations Act, 2010* must be approved by each class of shareholders by a separate vote.

Other amendments complementary to or consistent with the *Not-for-Profit Corporations Act, 2010* are:

1. Under sections 17 and 118, a company or corporation may be incorporated under Part II or III of the Act, respectively, only if Part V of the Act (Insurance Corporations) would apply to it.
2. Clause 34 (1) (q), which permits a company to apply for supplementary letters patent to convert it into a corporation with or without share capital, is repealed.
3. Under subsection 34 (10), only insurers may apply for supplementary letters patent to convert a company into a public company, a private company or a corporation without share capital.
4. Under subsection 317 (1), the Minister may cancel for sufficient cause certain orders and other documents.

The Schedule amends sections 93, 161 and 296 of the *Corporations Act* to require that notice of members' or shareholders' meetings be given "in writing". This triggers the application of the *Electronic Commerce Act, 2000*, which allows the notice to be given by electronic means if certain conditions specified in that Act are met.

For not-for-profit corporations, in the interim before the *Not-for-Profit Corporations Act, 2010* comes into force, the following amendments apply to corporations to which Part III of the Act applies but to which Part V of the Act does not apply:

1. New section 117.1 addresses conflicts between provisions of the Act or its regulations and provisions of other Acts or regulations as well as conflicts between provisions of the Act or its regulations and principles of common law or

equity relating to charities. It also deals with provisions of the Act or its regulations that are inconsistent with the intent or purpose of other Acts or regulations.

- 2 Under the new section 125.1, a meeting of members may be held by telephonic or electronic means, unless the by-laws of a corporation provide otherwise.
- 3 Under the new section 126.1, corporations are given the capacity, rights, powers and privileges of a natural person. The section expressly provides that a corporation's acts are valid even if the corporation acted contrary to its instrument of incorporation, its by-laws or the Act.
- 4 New section 126.2 provides that a corporation may sell, lease or exchange all or substantially all of its undertaking or all or substantially all of a part of its undertaking, if authorized to do so by a special resolution.
- 5 Under the new section 126.3, if a person enters into a written or oral contract on behalf of a corporation before it comes into existence, the corporation may, by any action or conduct, adopt the contract. In that event, the corporation is bound by the contract and is entitled to the benefits under the contract as if the corporation had been a party to it, and the person who purported to act on behalf of the corporation ceases to be bound by or entitled to the benefits under the contract.
- 6 New section 127.1 sets out the duties and standard of care of the directors and officers, which is to act honestly and in good faith with a view to the best interests of the corporation and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The section also provides that no provision in a contract, instrument of incorporation, by-law or resolution can relieve a director or officer from the duty to act in accordance with the Act and the regulations or relieve him or her from liability for a breach of the Act or the regulations.
- 7 New section 127.2 allows the members to remove a director from office by majority vote rather than two-thirds vote, as is currently the case. Persons who are directors by virtue of their office cannot be removed. A vacancy resulting from the removal of a director may be filled at the members' meeting at which the director is removed. If that is not done, the vacancy resulting from the removal may be filled in the same way that a vacancy resulting from other causes may be filled.
- 8 Under the new section 130.1, the members may, by an extraordinary resolution, decide not to appoint an auditor and not to have an audit in respect of a financial year if the corporation had annual revenue in that financial year not exceeding \$100,000 or a different amount prescribed by the regulations.
- 9 Under subsection 286 (3), the by-laws of a corporation may provide that a person may be a director even though he or she is not a shareholder or member.
- 10 Section 288 of the Act indicates how vacancies in the board of directors are to be filled. New subsection 288 (4) provides that if a corporation has no directors or members, the court may make an order appointing the required number of directors.
- 11 New subsection 313 (1.0.1) prohibits a corporation from applying for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of another jurisdiction, unless the laws of the other jurisdiction provide, among other things, that the corporation continues to be liable for its obligations, that any existing cause of action, claim or liability to prosecution is unaffected, that actions and proceedings by or against the corporation may continue to be prosecuted, and that rulings, orders or judgments in favour of or against the corporation may be enforced.

Related Amendments

The Schedule amends nine Acts as a consequence of the amendments being made to the *Corporations Act*. In the case of some of the corporations governed by those Acts, it is necessary to provide clarity on the application of the *Corporations Act* to them or on their powers.

SCHEDULE 8

MINISTRY OF GOVERNMENT AND CONSUMER SERVICES — NOT FOR PROFIT CORPORATIONS ACT, 2010 AND CONSEQUENTIAL AMENDMENTS

Not-for-Profit Corporations Act, 2010

The definition of Minister does not name a specific Minister, but refers to the Minister who is made responsible for the administration of the Act under the *Executive Council Act*. The appointment of the Director under the Act is made mandatory rather than permissive. The Director may delegate the Director's powers to any person, subject to any restrictions set out in the delegation.

The Director is given the following powers:

- 1 The power to establish requirements in respect of the content, form, format and filing of the various documents required to be prepared or filed under the Act, including court orders, and the form, format and payment of fees

2. The power to establish requirements in respect of the signing or other execution of documents.
3. The power to determine whether or not any document may be filed by fax.
4. The power to assign corporation numbers.
5. The power to endorse and issue documents by any method.
6. The power to use or issue validation codes or other systems or methods of validation on issued documents.
7. The power, with specified exceptions, to make available to the public any notices or other documents sent by the Director under the Act or any documents that the Act, a regulation made under the Act or the Director requires be sent to the Director.
8. The power to require the use of forms that the Director approves.
9. Powers to exercise if an inability arises, for any reason, to receive filings in an electronic system or to issue documents.

The Schedule expands the Minister's regulation-making powers. They include the making of regulations in respect of the content, form, format and filing of various documents. The Minister may prescribe, by regulation, additional documents and information that are required in support of the various documents required to be filed under the Act. The regulation may specify whether the supporting documents and information are to be filed with the Director or are to be retained and filed with the Director, or given to another specified person, at a later date on notice from the Director. The regulation may permit the Director to require different filing obligations for any of the prescribed supporting documents and information or for documents that the Act requires be filed.

New section 206.2 gives the Minister, or a person designated by the Minister, the power to enter into agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Director or other government official.

The Schedule amends the Act to accommodate the filing, keeping and searching of documents in electronic format. This includes the following changes:

1. Defining "endorse" to include electronic actions.
2. Providing for searches of the records maintained by the Ministry by any method approved by the Director and the obtaining of copies of documents in the records or extracts from those documents.
3. Permitting the Director to specify methods for the execution of documents other than by signing them.
4. Permitting the Director to issue corrected documents.
5. Providing that the electronic version of a document in the records maintained by the Ministry prevails in the event of inconsistencies between different versions of a document.
6. Providing that, with specified exceptions, the Director may accept a copy of a notice or other document required to be sent to the Director, including an electronic copy.
7. Defining "telephonic or electronic means" to allow for communication by new technologies without their having to be authorized by regulation.

The Schedule amends the requirement for documents and information to be filed with the Director in accordance with the regulations so that they must be filed in accordance with any applicable regulations and Director's requirements. The Schedule amends the requirement for the Director to endorse articles in accordance with the regulations so that the Director is required to endorse articles in accordance with a new section of the Act.

The Schedule re-enacts section 115 which addresses the continuance under the Act of bodies corporate governed by other Ontario legislation. As in the current section 115, the re-enacted section provides that a body corporate incorporated or continued under another Act may apply to the Director for a certificate of continuance under the Act and may, by the same resolution authorizing the body corporate's directors to apply for continuance, make any amendment to its charter that a corporation incorporated under the Act could make to its articles, with some exceptions. The re-enacted section adds the following rules that are applicable to bodies corporate with share capital:

1. The same resolution must delete any provisions in the charter related to authorized shares and must provide for the cancellation of all issued shares.
2. The resolution must also comply with the applicable requirements of the body corporate's governing Act or, if there are no such requirements, must have unanimous shareholder approval.
3. The body corporate cannot apply for continuance under the Act if, upon continuance, it will not be able to pay its liabilities as they become due.

Finally, new subsection 115 (10) preserves certain rights in respect of a body corporate, with or without share capital, after it is continued under the Act. This mirrors subsection 114 (8) respecting the continuance of bodies corporate from other jurisdictions.

The Schedule amends section 169 to expand the types of certificates, letters patent, instruments and orders that the Director may cancel for sufficient cause.

The Schedule amends the requirement for a non-charitable corporation to receive more than \$10,000 of specified funding in order to meet the definition of a public benefit corporation in subsection 1 (1) of the Act so that it must receive more than \$10,000 or another prescribed amount.

New subsection 4 (1.1) provides that the Act does not apply to corporations sole, except as is prescribed. New section 207.1 authorizes the Lieutenant Governor in Council to prescribe provisions of the Act and the regulations that are to apply to corporations sole and to prescribe modifications, if any. Subsection 4 (2) is re-enacted to provide that the Act does not apply to a body corporate incorporated for the construction and working of a railway, incline railway or street railway.

The Schedule amends subsection 24 (8) to require that individuals' consents to act as directors of a corporation must be in writing.

Currently section 105 and subsections 111 (3) and (4), 116 (3) and 118 (4) and (5) are not in force. They provide that members of a corporation may vote on certain matters (being amendments to rights attached to a class or group of members; amalgamation, continuance to another jurisdiction; or sale, lease or exchange of all or substantially all the property of the corporation) whether or not their memberships carry the right to vote, and in some cases provide for members to vote separately as a class or group. The Schedule brings these provisions into force on a day to be named by proclamation that is no earlier than the third anniversary of the day subsection 4 (1) of the Act comes into force.

The Schedule re-enacts section 207 governing transitional matters.

Consequential Amendments

The Schedule also amends more than 80 Acts in consequence of the *Not-for-Profit Corporations Act, 2010*.

Most of the Acts amended in the Schedule currently contain provisions that say the *Corporations Act* or Part III of the *Corporations Act* does not apply to a specified corporation, or does not apply to the corporation except as prescribed by regulation. These provisions are amended, or new provisions are added, to say that the *Not-for-Profit Corporations Act, 2010* does not apply, or does not apply except as prescribed by regulation.

There are also some amendments that are not about the application of the *Not-for-Profit Corporations Act, 2010* to a corporation, but for other reasons replace a reference to the *Corporations Act* with the *Not-for-Profit Corporations Act, 2010* or add the *Not-for-Profit Corporations Act, 2010* to a list of Acts that includes the *Corporations Act*. See, for example, the amendments to the *Co-operative Corporations Act*, the *City of Greater Sudbury Act, 1999*, the *City of Hamilton Act, 1999*, the *City of Ottawa Act, 1999* and the *Town of Haldimand Act, 1999*.

SCHEDULE 9

MINISTRY OF GOVERNMENT AND CONSUMER SERVICES — REGISTRATION AND OTHER STATUTES

Arthur Wishart Act (Franchise Disclosure), 2000

The Schedule removes all references to "service mark" from the Act. It amends the definition of "franchise" so that it includes a situation where the franchisor or franchisor's associate has the right to exercise significant control over, or to offer significant assistance in, the franchisee's method of operation.

The Schedule amends section 5 of the Act so that the obligations to provide a prospective franchisee with a disclosure document or a statement of material change do not apply to certain specified agreements that do not grant the franchise, subject to specified exceptions. It also expands the scope of the exemption in clause 5 (7) (b) of the Act to cover the grant of a franchise to a person who is not currently an officer or director of the franchisor or the franchisor's associate in certain circumstances.

Condominium Act, 1998

The Schedule makes a housekeeping amendment to the Act for the purpose of consistency.

Land Registration Reform Act

At present, section 21 of the Act provides that certain electronic documents do not need to be signed by the parties in order to be registered or deposited. The Schedule extends that provision to cover all electronic documents.

Land Titles Act

The Schedule amends section 67 of the Act which deals with the description of a registered owner to reflect the amendments made in 2016 to the *Vital Statistics Act* and the *Change of Name Act* that allow a person to have a single name.

Personal Property Security Act

The Schedule amends the conflict of laws provisions in sections 7, 7.1, 7.2 and 7.3 of the Act to replace references to a debtor relocating to another jurisdiction with references to a change in the jurisdiction where a debtor is considered to be located as determined in accordance with the rules set out in the Act. The reason for these amendments is to clarify that the jurisdiction where a debtor is considered to be located may change, not as a result of the debtor physically relocating, but as a result of the application of the new "location of debtor" rules in subsections 7 (3), (4) and (5) of the Act, as enacted by subsection 3 (2) of Schedule E to the *Ministry of Government Services Consumer Protection and Service Modernization Act, 2006*, which came into force on December 31, 2015.

The Schedule also amends the transition rules in subsections 7.2 (7) and 7.3 (6) of the Act to clarify that they apply if the jurisdiction where the debtor was located on December 31, 2015 is different from what it was immediately before that day, solely as a result of the application of the new "location of debtor" rules in subsections 7 (3), (4) and (5) as they read on that day and not as a result of any change in a factor by which the debtor's location is determined under the Act.

New section 46.1 of the Act provides that for the purposes of subsection 46 (4) of the Act, a reasonable person is deemed not likely to be misled materially, insofar as a security interest in a motor vehicle is concerned, by the fact that a financing statement or financing change statement has one or more specified errors or omissions, if specified circumstances exist.

New section 46.2 of the Act provides that for the purposes of subsection 46 (4) of the Act, a reasonable person is deemed likely to be misled materially, insofar as a security interest in a motor vehicle is concerned, by one or more specified errors or omissions in a financing statement or financing change statement, in specified circumstances.

Registry Act

The Schedule amends subsection 48 (2) of the Act which deals with the description of a grantee to reflect the amendments made in 2016 to the *Vital Statistics Act* and the *Change of Name Act* that allow a person to have a single name.

Repair and Storage Liens Act

New subsection 9 (3) of the *Repair and Storage Liens Act* provides that for the purposes of subsection 9 (2) of the Act, a reasonable person is deemed not likely to be misled materially, insofar as a lien against a motor vehicle is concerned, by the fact that a claim for lien or change statement has one or more specified errors or omissions, if specified circumstances exist.

New section 9 (5) of the Act provides that for the purposes of subsection 9 (2) of the Act, a reasonable person is deemed likely to be misled materially, insofar as a lien against a motor vehicle is concerned, by one or more specified errors or omissions in a claim for lien or change statement.

**SCHEDULE 10
MINISTRY OF MUNICIPAL AFFAIRS**

Municipal Elections Act, 1996

The Schedule amends the Act to provide that compliance audit committees may deliberate in private.

**SCHEDULE 11
ACCESSIBILITY AMENDMENTS**

Absconding Debtors Act

The Schedule repeals the Form to the Act and amends section 16 to provide for the form of a bill of sale to be prescribed by regulation under the Act.

Bail Act

The Schedule repeals the Forms to the Act and provides that forms for the purposes of the Act may be prescribed by regulation under the Act.

Courts of Justice Act

The Schedule replaces section 1.1 of the Act in order to separate out existing English and French interpretation rules respecting the names of courts and court officials.

Estates Administration Act

The Schedule repeals the Forms to the Act and amends section 9 to provide that forms for the purposes of that section may be prescribed by regulation under the Act.

Forestry Workers Lien for Wages Act

The Schedule repeals Forms 1 and 2 at the end of the Act and amends the Act to require a claim of lien and affidavit referred to in subsections 5 (1) and (2) be in a form approved by the Minister of Natural Resources and Forestry. The Schedule also makes a housekeeping amendment to correct the French version of the short title of the Act.

Interprovincial Summonses Act

The Schedule repeals the form set out in Schedule 2 to the Act and provides that the form of a certificate for the purposes of sections 2 and 5 of the Act may be prescribed by regulation under the Act.

Legislative Assembly Act

The Schedule repeals the Forms to the Act and incorporates their contents directly into sections 59 and 101 of the Act.

Local Health System Integration Act, 2006

The Schedule makes technical French and accessibility amendments to the Act.

Mortgages Act

The Schedule repeals the Form to the Act and provides that forms for the purposes of the Act may be prescribed by regulation under the Act.

Municipal Act, 2001

The Schedule repeals the Table to section 11 and replaces it with an accessible version of the Table.

Northern Services Boards Act

The Schedule repeals Forms 1 and 2 at the end of the Act and incorporates the requirements of the repealed forms into sections 3 and 20 of the Act.

Repair and Storage Liens Act

The Schedule makes various amendments to the Act.

New clause 33 (a) authorizes the Minister to make regulations specifying forms in relation to the matters listed in that clause. The current clause 31.1 (1) (b), which authorizes the Minister to make orders specifying forms, is amended so that it applies only to forms that are not listed in the new clause 33 (a). The not-yet-in-force clause 31.2 (1) (a), which will authorize the registrar to make orders specifying forms in the place of the Minister, is amended so that it will apply only to forms that are not listed in the new clause 33 (a) when it comes into force.

New clause 33 (b) authorizes the Minister to make regulations specifying the types of security that may be deposited with a court under section 24 and specifying forms in relation to these types of security. This replaces the current clause 32 (1) (b), which authorizes the Lieutenant Governor in Council to make regulations specifying these types of security. It also replaces the powers of the Minister in the current clause 31.1 (1) (b) and the powers of the registrar in the not-yet-in-force clause 31.2 (1) (a) to specify forms.

The Schedule makes consequential wording changes in several current provisions of the Act.

Smoke-Free Ontario Act

The Schedule makes technical French and accessibility amendments to the Act.

CHAPITRE 20

Loi visant à réduire les formalités administratives inutiles, à édicter une nouvelle loi et à modifier et abroger d'autres lois

Sanctionnée le 14 novembre 2017

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Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Contenu de la présente loi

1 La présente loi est constituée du présent article, des articles 2 et 3 et de ses annexes.

Entrée en vigueur

2 (1) Sous réserve des paragraphes (2) et (3), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.

(2) Les annexes de la présente loi entrent en vigueur comme le prévoit chacune d'elles.

(3) Si une annexe de la présente loi prévoit que l'une ou l'autre de ses dispositions entre en vigueur le jour que le lieutenant gouverneur fixe par proclamation, la proclamation peut s'appliquer à une ou à plusieurs d'entre elles. En outre, des proclamations peuvent être prises à des dates différentes en ce qui concerne n'importe lesquelles de ces dispositions.

Titre abrégé

3 Le titre abrégé de la présente loi est *Loi de 2017 visant à réduire les formalités administratives inutiles*.

ANNEXE 1

MINISTÈRE DE L'AGRICULTURE, DE L'ALIMENTATION ET DES AFFAIRES RURALES

1 (1) Le paragraphe 3 (2) de la *Loi de 1998 sur la protection de l'agriculture et de la production alimentaire* est abrogé et remplacé par ce qui suit :

Président et vice-présidents

(2) Le ministre peut désigner un membre de la Commission à la présidence et peut en désigner un ou plusieurs autres à la vice-présidence.

(2) Le paragraphe 3 (4) de la Loi est modifié par remplacement de «le vice-président est investi de tous les pouvoirs du président» par «un des vice-présidents peut exercer les pouvoirs du président» à la fin du paragraphe.

(3) Le paragraphe 3 (9) de la Loi est modifié par remplacement de «Le président ou le vice-président» par «Le président ou un vice-président» au début du paragraphe.

Entrée en vigueur

2 La présente annexe entre en vigueur le jour où la *Loi de 2017* visant à réduire les formalités administratives inutiles reçoit la sanction royale.

ANNEXE 2 MINISTÈRE DU PROCUREUR GÉNÉRAL

LOI SUR LA COMPTABILITÉ DES OEUVRES DE BIENFAISANCE

1 L'article 10.1 de la *Loi sur la comptabilité des oeuvres de bienfaisance* est modifié par insertion de «Sous réserve du paragraphe 10.3 (3).» au début de l'article.

2 La Loi est modifiée par adjonction des articles suivants :

Placements sociaux

10.2 (1) Le présent article s'applique aux fins des articles 10.3 et 10.4.

Interprétation : placement social

(2) Un fiduciaire fait un placement social lorsqu'il affecte ou utilise des biens en fiducie dans le but de faire ce qui suit :

- a) directement réaliser les objets de la fiducie;
- b) permettre à la fiducie d'atteindre une rentabilité financière, au sens du paragraphe (3).

Interprétation : atteinte d'une rentabilité financière

(3) L'affectation ou l'utilisation de biens en fiducie est considérée comme permettant d'atteindre une rentabilité financière si le résultat à l'égard des biens en fiducie est meilleur pour la fiducie en termes financiers que la disposition de tous les biens.

Résultats additionnels

(4) Le fait que l'affectation ou l'utilisation des biens en fiducie puisse entraîner d'autres résultats en plus de ceux visés aux alinéas (2) a) et b) n'empêche pas de pouvoir qualifier l'opération de placement social.

Nature du placement social

(5) Un placement social pour l'application des articles 10.3 et 10.4 n'est pas, de ce seul fait, un placement à toute autre fin.

Conditions de la fiducie

(6) Pour l'application des articles 10.3 et 10.4, les documents constitutifs d'une personne morale réputée un fiduciaire en application du paragraphe 1 (2) font partie des conditions de la fiducie.

Immunité

(7) Le fiduciaire n'est pas tenu responsable de la perte subie par la fiducie par suite d'un placement social qu'il a fait s'il a agi avec intégrité et de bonne foi, conformément aux obligations, restrictions et limites qui s'appliquent dans le cadre de la présente loi et aux conditions de la fiducie.

Pouvoir de faire des placements sociaux

10.3 (1) Un fiduciaire peut faire des placements sociaux, sous réserve du paragraphe (2).

Restriction

(2) Aucun placement social ne peut être fait relativement à des biens en fiducie qui font l'objet d'une restriction quant à l'utilisation du capital aux fins de la fiducie, sauf si le fiduciaire s'attend à ce que le placement social ne contreviennent pas à la restriction ou que les conditions de la fiducie autorisent un tel placement.

Application de certaines règles en matière de placement

(3) Les paragraphes 27 (3) et (4) de la *Loi sur les fiduciaires* s'appliquent, avec les adaptations nécessaires, à l'égard de la réalisation de placements sociaux, autrement, les articles 27 à 29 de cette loi ne s'y appliquent pas.

Pouvoirs restreints ou exclus

(4) Le pouvoir conféré par le présent article peut être restreint ou exclu par les conditions de la fiducie.

Placements sociaux : obligations du fiduciaire

10.4 (1) Avant de réaliser un placement social, un fiduciaire doit :

- a) d'une part, déterminer si les circonstances nécessitent l'obtention de conseils à propos du placement social proposé et, le cas échéant, obtenir de tels conseils et en tenir compte;
- b) d'autre part, être convaincu que le placement social est dans l'intérêt de la fiducie, compte tenu du bénéfice attendu pour celle-ci.

Examen régulier des placements

(2) Le fiduciaire examine de temps à autre les placements sociaux des biens en fiducie.

Idem : conseils

(3) Lorsqu'il procède à l'examen prévu au paragraphe (2), le fiduciaire doit déterminer si les circonstances nécessitent l'obtention de conseils à propos du placement social et, le cas échéant, obtenir de tels conseils et en tenir compte.

Conseils suivis

(4) Le fait d'agir suivant les conseils obtenus en vertu de l'alinéa (1) a) ou du paragraphe (3) ne constitue pas un manquement aux obligations du fiduciaire.

Aucune restriction ou exclusion en matière d'obligations

(5) Les obligations prévues au présent article ne peuvent pas être restreintes ni exclues par les conditions de la fiducie.

LOI SUR LES TRIBUNAUX JUDICIAIRES

3 L'article 47 de la Loi sur les tribunaux judiciaires est modifié par adjonction du paragraphe suivant :

Nomination de juges ayant atteint l'âge de 65 ans

(8) Le présent article s'applique, avec les adaptations nécessaires, à la personne nommée juge provincial, juge en chef, juge en chef adjoint ou juge principal régional après qu'elle a atteint l'âge de 65 ans.

4 Les paragraphes 87.2 (11) et (12) de la Loi sont abrogés.

5 La Loi est modifiée par adjonction de l'article suivant :

Plainte

87.3 (1) Toute personne peut porter devant le juge en chef de la Cour supérieure de justice une plainte selon laquelle il y aurait eu inconduite de la part du juge et chef de l'administration de la Cour des petites créances.

Rejet

(2) Le juge en chef examine la plainte et peut la rejeter sans autre forme d'enquête si, à son avis, elle est frivole ou constitue un abus de procédure, ou qu'elle porte sur une question mineure qui a déjà été réglée de façon satisfaisante.

Avis de rejet

(3) Le juge en chef avise par écrit le juge et chef de l'administration de la Cour des petites créances et le plaignant d'un rejet prévu au paragraphe (2), en exposant brièvement les motifs du rejet.

Comité

(4) Si la plainte n'est pas rejetée, le juge en chef la renvoie à un comité qui se compose de trois personnes déterminées conformément au paragraphe (5).

Idem

(5) Les trois personnes sont choisies par le juge en chef et sont un juge de la Cour supérieure de justice, un juge suppléant et une personne qui n'est ni juge ni avocat.

Enquête

(6) Le comité enquête sur la plainte de la manière qu'il estime appropriée, et le plaignant et le juge et chef de l'administration de la Cour des petites créances doivent avoir l'occasion de lui présenter des observations par écrit ou, si le comité le désire, de vive voix.

Recommandation

(7) Le comité présente au juge en chef un rapport recommandant une mesure conformément au paragraphe (8).

Mesures

(8) Le juge en chef peut rejeter la plainte, qu'il ait conclu ou non que la plainte n'était pas fondée, ou, s'il conclut que la conduite du juge et chef de l'administration de la Cour des petites créances fournit des motifs pour imposer une sanction, il peut, selon le cas :

- a) donner un avertissement au juge et chef de l'administration de la Cour des petites créances;
- b) réprimander le juge et chef de l'administration de la Cour des petites créances;
- c) ordonner au juge et chef de l'administration de la Cour des petites créances de présenter des excuses au plaignant ou à toute autre personne;
- d) ordonner que le juge et chef de l'administration de la Cour des petites créances prenne des dispositions précises, telles suivre une formation ou un traitement;
- e) suspendre le juge et chef de l'administration de la Cour des petites créances pendant une période maximale de 30 jours;

- f) donner une directive voulant qu'aucune fonction judiciaire ne soit assignée au juge et chef de l'administration de la Cour des petites créances ou que seules des fonctions judiciaires précises le soient;
- g) recommander au procureur général de destituer le juge et chef de l'administration de la Cour des petites créances;
- h) adopter toute combinaison des mesures énoncées aux alinéas a) à g).

Motif de la destitution

(9) Une recommandation de destitution ne peut être fondée que sur un motif mentionné à l'alinéa 51.8 (1) b) et doit préciser le motif sur lequel elle se fonde.

Recommandation de destitution

(10) Lorsqu'il recommande la destitution au procureur général, le juge en chef accompagne la recommandation de ce qui suit :

- a) une copie du rapport du comité;
- b) si la recommandation du juge en chef n'est pas conforme au rapport, les motifs de sa recommandation.

Non-identification

(11) Si la plainte porte sur des allégations d'inconduite d'ordre sexuel ou de harcèlement sexuel et que la victime présumée de l'inconduite ou du harcèlement fait une demande en ce sens, le rapport fourni au procureur général en application de l'alinéa (10) a) ou les motifs fournis en application de l'alinéa (10) b) ne doivent pas identifier la victime.

Rapport et motifs rendus publics

(12) Le procureur général peut rendre publics le rapport et les motifs s'il est d'avis qu'il est dans l'intérêt public de le faire.

Dépôt

(13) Si le juge en chef recommande la destitution en vertu de l'alinéa (8) g), le procureur général dépose devant l'Assemblée la recommandation, en y indiquant le motif sur lequel elle se fonde.

Décret de destitution

(14) Le lieutenant-gouverneur peut, sur la base d'une recommandation en ce sens et sur demande de l'Assemblée, prendre un décret en vue de la destitution du juge et chef de l'administration de la Cour des petites créances.

Indemnisation

(15) Les paragraphes 86.2 (10), (11), (12), (13) et (14) s'appliquent, avec les adaptations nécessaires, à l'égard de l'indemnisation du juge et chef de l'administration de la Cour des petites créances au titre des frais pour services juridiques qu'il a engagés relativement à une plainte.

Délégation

(16) Le juge en chef peut déléguer les pouvoirs et fonctions que lui attribue le présent article au juge en chef adjoint de la Cour supérieure de justice, à un juge principal régional de la Cour supérieure de justice ou au juge principal de la Cour de la famille.

Idem

(17) Le juge en chef peut déléguer les pouvoirs et fonctions que lui attribuent les paragraphes (2), (3) et (4) à un juge de la Cour supérieure de justice, mais le juge qui agit en vertu de l'une ou l'autre de ces dispositions relativement à une plainte ne peut pas être choisi en vertu du paragraphe (5) pour faire partie d'un comité d'enquête sur la plainte.

Non-application de la Loi sur l'exercice des compétences légales

(18) La *Loi sur l'exercice des compétences légales* ne s'applique pas au juge ou au membre d'un comité agissant en vertu du présent article.

Immunité

(19) Sont irrecevables les actions ou autres instances en dommages-intérêts introduites contre un juge ou un membre d'un comité pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel des pouvoirs ou fonctions que lui attribuent le présent article ou pour une négligence ou un manquement commis dans l'exercice de bonne foi de ces pouvoirs ou fonctions.

6 La Loi est modifiée par adjonction de la partie suivante :

PARTIE VII.1 EXÉCUTION DE CERTAINS ACCORDS COMMERCIAUX

Champ d'application

148.1 La présente partie s'applique aux accords suivants :

1. L'Accord sur le commerce intérieur, dans ses versions successives, signé en 1994 par les gouvernements du Canada, des provinces du Canada, des Territoires du Nord-Ouest et du Yukon.
2. L'Accord de libre-échange canadien, dans ses versions successives, signé en 2017 par les gouvernements du Canada et des provinces et territoires du Canada.
3. Les autres accords commerciaux nationaux prescrits que le gouvernement de l'Ontario a conclus avec le gouvernement d'une autre province ou d'un territoire du Canada, le gouvernement du Canada ou une combinaison d'entre eux.

Exécution de l'ordonnance de paiement des dépens prévus au tarif

148.2 (1) L'ordonnance enjoignant à une personne de payer les dépens prévus au tarif à une partie à un accord visé à l'article 148.1 peut, aux seules fins de son exécution, être assimilée à une ordonnance de la Cour supérieure de justice si elle est rendue contre l'une ou l'autre des personnes suivantes :

- a) la personne qui a porté plainte;
- b) la personne qui a été jointe à la plainte à titre de co-partie de la personne qui a porté plainte.

Procédure

(2) Pour faire exécuter une ordonnance visée au paragraphe (1), la partie en faveur de laquelle l'ordonnance est rendue dépose une copie certifiée conforme de l'ordonnance à la Cour supérieure de justice.

Effet

(3) À partir de la date du dépôt, l'ordonnance produit les mêmes effets qu'une ordonnance de la Cour supérieure de justice aux fins d'exécution dans la mesure où l'accord applicable l'autorise.

Date de l'ordonnance

(4) Pour l'application de l'article 129, la date à laquelle l'ordonnance est déposée à la Cour supérieure de justice est réputée être la date de l'ordonnance.

Règlements

148.3 Le lieutenant-gouverneur en conseil peut, par règlement, prescrire des accords comme accords commerciaux nationaux pour l'application de la présente partie.

LOI DE 2002 SUR LES ORDONNANCES ALIMENTAIRES D'EXÉCUTION RÉCIPROQUE

7 (1) La version anglaise de la *Loi de 2002 sur les ordonnances alimentaires d'exécution réciproque* est modifiée par remplacement de «ordinarily resides» par «is habitually resident» partout où figurent ces mots dans les dispositions suivantes :

1. L'alinéa 5 (2) b).
2. L'alinéa 6 (2) b).
3. Le paragraphe 7 (1).
4. L'article 9.
5. L'alinéa 27 (2) c).
6. L'alinéa 28 (2) b).
7. Le paragraphe 30 (1).
8. L'article 32.
9. L'article 35.
10. L'article 38.
11. L'alinéa 39 (1) c).
12. Le paragraphe 54 (3).

(2) La version anglaise de la Loi est modifiée par remplacement de «ordinary residence» par «habitual residence» partout où figurent ces mots dans les dispositions suivantes :

1. L'article 9.
2. L'article 32.

8 La définition de «ordonnance alimentaire» à l'article 1 de la Loi est abrogée et remplacée par ce qui suit :

«ordonnance alimentaire» S'entend d'une ordonnance exigeant le versement d'aliments que rend un tribunal ou un organisme administratif. S'entend en outre de ce qui suit :

- a) les dispositions d'un accord écrit prévoyant le versement d'aliments si celles-ci sont exécutoires dans le ressort ou l'accord a été conclu comme si elles figuraient dans une ordonnance rendue par un tribunal de ce ressort;
- b) le calcul ou le recalcul par un organisme administratif du versement des aliments destinés à un enfant, si ce calcul ou recalcul est exécutoire dans le ressort où il a été fait comme s'il s'agissait d'une ordonnance rendue par un tribunal de ce ressort ou comme s'il figurait dans une telle ordonnance. («support order»)

9 Le paragraphe 5 (1) de la Loi est modifié par remplacement de «Le requérant qui réside habituellement en Ontario et qui croit que l'intimé réside habituellement dans le ressort d'une autorité pratiquant la réciprocité» par «Le requérant qui réside en Ontario et qui croit que l'intimé réside habituellement dans le ressort d'une autorité pratiquant la réciprocité» au début du paragraphe.

10 L'article 10 de la Loi est modifié par adjonction du paragraphe suivant :

Signification au requérant non exigée

(2) Il n'y a aucune exigence de signification au requérant de l'avis, des renseignements ou des documents visés à l'alinéa (1) b).

11 (1) Le paragraphe 11 (4) de la Loi est modifié par remplacement de «18 mois» par «12 mois».

(2) L'article 11 de la Loi est modifié par adjonction du paragraphe suivant :

Disposition transitoire

(4.1) Le paragraphe (4), dans sa version antérieure au jour de l'entrée en vigueur du paragraphe 11 (1) de l'annexe 2 de la Loi de 2017 visant à réduire les formalités administratives inutiles, continue de s'appliquer à une demande présentée avant ce jour.

(3) Le paragraphe 11 (4.1) de la Loi, tel qu'il est édicté par le paragraphe (2), est abrogé.

12 La disposition 1 de l'article 13 de la Loi est abrogée et remplacée par ce qui suit :

- 1 Afin de déterminer si un enfant a le droit de recevoir des aliments, le tribunal de l'Ontario applique en premier lieu les règles de droit de l'Ontario. Toutefois, si l'enfant n'a pas le droit de recevoir des aliments en vertu de ces règles, le tribunal applique les règles de droit de l'autorité dans le ressort de laquelle l'enfant réside habituellement.

13 L'article 14 de la Loi est modifié par adjonction du paragraphe suivant :

Règles de droit appliquées

(3.1) L'ordonnance alimentaire précise les règles de droit appliquées pour rendre l'ordonnance, à défaut de quoi elle est réputée avoir été rendue en vertu des règles de droit de l'Ontario.

14 (1) Le paragraphe 18 (1) de la Loi est modifié par remplacement de «toute partie que l'on croit résider habituellement en Ontario, et sa situation» par «toute partie dont on croit qu'elle réside habituellement en Ontario ou dont on croit qu'elle détient des éléments d'actif ou qu'elle a une source de revenu en Ontario, et concernant sa situation» à la fin du paragraphe.

(2) Le paragraphe 18 (2) de la Loi est modifié par remplacement de «où l'on croit que réside la partie» par «où l'on croit que réside la partie ou où l'on croit qu'elle détient des éléments d'actif ou qu'elle a une source de revenu» à la fin du paragraphe.

15 L'article 19 de la Loi est modifié par adjonction des paragraphes suivants :

Règles de droit applicables : durée de l'obligation alimentaire

(8) Sauf disposition contraire de l'ordonnance, la durée de l'obligation alimentaire prévue dans une ordonnance enregistrée en application du paragraphe (1) est régie par les règles de droit du ressort dans lequel est rendue l'ordonnance.

Règles de droit de l'Ontario appliquées

(9) Si elle ne peut fixer la durée de l'obligation alimentaire conformément au paragraphe (8) en se fondant sur les renseignements reçus du requérant ou de l'autorité compétente de l'autorité pratiquant la réciprocité, l'autorité désignée peut exécuter l'ordonnance alimentaire pendant la durée fixée selon les règles de droit de l'Ontario.

16 (1) Le paragraphe 20 (1) de la Loi est abrogé et remplacé par ce qui suit :

Avis d'enregistrement : ordonnance rendue à l'extérieur du Canada

(1) Après l'enregistrement d'une ordonnance rendue dans le ressort d'une autorité pratiquant la réciprocité à l'extérieur du Canada, le greffier du tribunal de l'Ontario donne, conformément aux règlements, un avis de l'enregistrement aux personnes suivantes.

- a) les parties à l'ordonnance dont on croit qu'elles résident en Ontario;
- b) la partie tenue de verser des aliments aux termes de l'ordonnance qui vit dans un autre ressort et dont on croit qu'elle détient des éléments d'actif ou qu'elle a une source de revenu en Ontario.

(2) La version anglaise de l'alinéa 20 (6) a) de la Loi est modifiée par remplacement de «ordinarily reside» par «are habitually resident».

(3) L'alinéa 20 (6) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) si une des parties à l'ordonnance ne réside pas habituellement dans le ressort de l'autorité pratiquant la réciprocité à l'extérieur du Canada mais qu'elle est soumise à la compétence du tribunal qui a rendu l'ordonnance, selon ce qui est établi en application des règles de droit de l'Ontario.

17 Le paragraphe 27 (1) de la Loi est modifié par remplacement de «Le requérant qui réside habituellement en Ontario et qui croit que l'intimé réside habituellement dans le ressort d'une autorité pratiquant la réciprocité» par «Le requérant qui réside en Ontario et qui croit que l'intimé réside habituellement dans le ressort d'une autorité pratiquant la réciprocité» au début du paragraphe.

18 L'article 29 de la Loi est modifié par remplacement de «S'il réside habituellement en Ontario et que l'intimé ne réside plus habituellement dans le ressort d'une autorité pratiquant la réciprocité» par «S'il réside en Ontario et que l'intimé ne réside plus habituellement dans le ressort d'une autorité pratiquant la réciprocité» au début de l'article.

19 L'article 33 de la Loi est modifié par adjonction du paragraphe suivant :

Signification au requérant non exigée

(2) Il n'y a aucune exigence de signification au requérant de l'avis, des renseignements ou des documents visés à l'alinéa (1) b).

20 (1) Le paragraphe 34 (4) de la Loi est modifié par remplacement de «18 mois» par «12 mois».

(2) L'article 34 de la Loi est modifié par adjonction du paragraphe suivant :

Disposition transitoire

(4.1) Le paragraphe (4), dans sa version antérieure au jour de l'entrée en vigueur du paragraphe 20 (1) de l'annexe 2 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*, continue de s'appliquer à une demande présentée avant ce jour.

(3) Le paragraphe 34 (4.1) de la Loi, tel qu'il est édicté par le paragraphe (2), est abrogé.

21 (1) La disposition 1 de l'article 35 de la Loi est abrogée et remplacée par ce qui suit :

- 1. Afin de déterminer si un enfant a le droit de recevoir ou de continuer de recevoir des aliments, le tribunal de l'Ontario applique en premier lieu les règles de droit de l'Ontario. Toutefois, si l'enfant n'a pas le droit de recevoir des aliments en vertu de ces règles, le tribunal applique les règles de droit de l'autorité dans le ressort de laquelle l'enfant réside habituellement.

(2) La disposition 2 de l'article 35 de la Loi est abrogée et remplacée par ce qui suit :

- 2. Afin de déterminer le montant des aliments qui doit être versé au profit d'un enfant, le tribunal de l'Ontario applique les règles de droit de l'Ontario.

(3) La disposition 3 de l'article 35 de la Loi est modifiée :

- a) par remplacement de «le requérant a le droit» par «une partie à la requête a le droit» dans le passage qui précède la sous-disposition i;
- b) par remplacement de «Toutefois, si le requérant n'a pas le droit de recevoir des aliments» par «Toutefois, si la partie n'a pas le droit de recevoir des aliments» dans le passage qui précède la sous-disposition i.

(4) La sous-disposition 3 i de l'article 35 de la Loi est modifiée par remplacement de «le requérant» par «la partie».

(5) La sous-disposition 3 ii de l'article 35 de la Loi est modifiée par remplacement de «le requérant ne donnent pas à celui-ci» par «la partie ne donnent pas à celle-ci».

(6) La disposition 4 de l'article 35 de la Loi est modifiée par remplacement de «du requérant» par «de la partie».

22 (1) Le paragraphe 36 (1) de la Loi est modifié par remplacement de «du requérant» par «d'une partie» dans le passage qui précède l'alinéa a).

(2) L'article 36 de la Loi est modifié par adjonction du paragraphe suivant :

Règles de droit appliquées

(3.1) L'ordonnance modifiant l'ordonnance alimentaire précise les règles de droit appliquées pour rendre l'ordonnance, à défaut de quoi elle est réputée avoir été rendue en vertu des règles de droit de l'Ontario.

23 (1) Le paragraphe 39 (1) de la Loi est modifié par remplacement de «modifier une ordonnance alimentaire enregistrée en Ontario en vertu de la partie III ou sous le régime de l'ancienne loi» par «modifier une ordonnance alimentaire rendue ou enregistrée en Ontario en vertu de la présente loi ou sous le régime de l'ancienne loi» dans le passage qui précède l'alinéa a).

(2) La version anglaise de l'alinéa 39 (1) b) de la Loi est modifiée par remplacement de «ordinarily reside» par «are habitually resident».

24 L'alinéa 53 d) de la Loi est abrogé et remplacé par ce qui suit :

d) régler la conversion en monnaie canadienne des montants d'aliments qui ne sont pas exprimés en monnaie canadienne, notamment :

(i) traiter de la conversion pour l'application de l'article 44.

(ii) prévoir ou exiger de nouvelles conversions de montants convertis en application de l'article 44 et régler ces conversions;

LOI DE 2002 SUR LES GARANTIES INTERNATIONALES PORTANT SUR DES MATÉRIELS D'ÉQUIPEMENT MOBILES (ÉQUIPEMENTS AÉRONAUTIQUES)

25 (1) La version française de l'alinéa b) du paragraphe 3 de l'article 30 de l'annexe 1 de la *Loi de 2002 sur les garanties internationales portant sur des matériels d'équipement mobiles (équipements aéronautiques)* est abrogée et remplacée par ce qui suit :

b) à toute règle de procédure relative à l'exercice de droits sur des biens soumis au contrôle ou à la surveillance de l'administrateur d'insolvabilité.

(2) La version française du paragraphe 6 de l'article 51 de l'annexe 1 de la Loi est abrogée et remplacée par ce qui suit :

6. L'article 45 bis de la présente Convention ne s'applique à un tel Protocole que si celui-ci le prévoit expressément

26 La version française du titre de l'annexe figurant à l'annexe 2 de la Loi est modifiée par adjonction de ce qui suit après «FORMULAIRE D'AUTORISATION IRRÉVOCABLE DE DEMANDE DE RADIATION DE L'IMMATRICULATION ET DE PERMIS D'EXPORTATION» :

Annexe visée à l'article XIII

LOI SUR LES JURYS

27 L'article 1 de la *Loi sur les jurys* est modifié par adjonction de la définition suivante :

«questionnaire pour la sélection d'un jury» La formule prescrite par les règlements pour l'application du paragraphe 6 (1).
(«jury questionnaire»)

28 La version française de la disposition 6 du paragraphe 3 (1) de la Loi est modifiée par remplacement de «d'institut correctionnel» par «d'établissement correctionnel».

29 Le sous alinéa 5 (3) a) (ii) de la Loi est modifié par remplacement de «d'avis de sélection de juré» par «de questionnaires pour la sélection d'un jury».

30 (1) Le paragraphe 6 (1) de la Loi est modifié :

a) par remplacement de «un avis de sélection de juré accompagné d'une formule de rapport rédigée selon la formule prescrite par les règlements» par «un questionnaire pour la sélection d'un jury, rédigé selon la formule prescrite par les règlements»;

b) par remplacement de «, par courrier de première classe,» par «par la poste».

(2) Le paragraphe 6 (2) de la Loi est modifié par remplacement de «des personnes à qui sont envoyés, aux termes du présent article, les avis de sélection de juré» par «des personnes à qui sont envoyés par la poste, aux termes du paragraphe (1), les questionnaires pour la sélection d'un jury».

(3) Le paragraphe 6 (4) de la Loi est modifié par remplacement de «L'avis de sélection de juré prévu au présent article» par «Le questionnaire pour la sélection d'un jury» au début du paragraphe.

(4) Le paragraphe 6 (5) de la Loi est abrogé et remplacé par ce qui suit :

Renvoi du questionnaire pour la sélection d'un jury

(5) Dans les 90 jours suivant sa réception, toute personne à qui est envoyé par la poste un questionnaire pour la sélection d'un jury en application du paragraphe (1) le remplit de façon exacte et vérifiée et l'envoie au shérif du comté par la poste ou par tout moyen électronique qui peut être précisé dans le questionnaire.

(5) Le paragraphe 6 (6) de la Loi est modifié par remplacement de «l'avis» par «le questionnaire pour la sélection d'un jury», partout où ces mots figurent.

(6) Le paragraphe 6 (7) de la Loi est modifié :

a) par remplacement de «des avis de sélection de juré, une liste alphabétique des destinataires de ces avis» par «des questionnaires pour la sélection d'un jury, une liste alphabétique des destinataires de ces questionnaires» et par remplacement de «des avis de sélection» par «par la poste des questionnaires pour la sélection d'un jury»;

b) par insertion de «par la poste, prévu au paragraphe (1),» après «après l'envoi».

31 (1) Le paragraphe 8 (1) de la Loi est abrogé et remplacé par ce qui suit :

Inscription de noms sur la liste des jurés

(1) Le shérif fait inscrire sur la liste des jurés les nom, adresse et profession de chaque personne qui, d'après le questionnaire pour la sélection d'un jury qu'elle a renvoyé, se révèle habile à être membre d'un jury. Les inscriptions sont faites par ordre alphabétique et sont numérotées consécutivement.

(2) Les dispositions 1, 2 et 3 du paragraphe 8 (2) de la Loi sont modifiées par remplacement de «, d'après les rapports,» par «, d'après les questionnaires pour la sélection d'un jury renvoyés,», partout où ces mots figurent.

(3) Le paragraphe 8 (4) de la Loi est modifié par remplacement de «d'avis supplémentaires de sélection de juré et de formules de rapport» par «de questionnaires supplémentaires pour la sélection d'un jury».

(4) Le paragraphe 8 (5) de la Loi est modifié par remplacement de «avis supplémentaires de sélection dont le shérif a demandé l'envoi» par «questionnaires pour la sélection d'un jury dont le shérif a demandé l'envoi par la poste» à la fin du paragraphe.

32 (1) Le paragraphe 19 (1) de la Loi est modifié par remplacement de «en lui envoyant par courrier ordinaire un avis signé par lui, rédigé selon la formule prescrite par les règlements» par «en lui envoyant par la poste un avis rédigé selon la formule prescrite par les règlements».

(2) L'article 19 de la Loi est modifié par adjonction du paragraphe suivant :

Fourniture possible de l'assignation par voie électronique

(1.1) Malgré le paragraphe (1), le shérif peut fournir à la personne la formule sous forme électronique si, dans le questionnaire pour la sélection d'un jury qu'elle a renvoyé, elle y consent et précise ses coordonnées à cette fin.

33 Le paragraphe 27 (1) de la Loi est abrogé et remplacé par ce qui suit :

Formation du tableau du jury lors du procès

(1) Le nom de chaque personne assignée comme juré ainsi que son lieu de résidence, sa profession et son numéro au tableau du jury sont inscrits sur des cartes ou feuilles de papier distinctes, qui doivent être, dans la mesure du possible, de format identique.

Idem

(1.1) Les cartes ou feuilles de papier sont placées, sous la surveillance du shérif, dans un contenant qu'il fournit à cette fin et qu'il remet ensuite au greffier.

34 (1) Le paragraphe 38 (3) de la Loi est modifié par remplacement de «de remplir la formule de rapport qui accompagne l'avis de sélection de juré» par «de remplir un questionnaire pour la sélection d'un jury» dans le passage qui précède l'alinéa a).

(2) L'alinéa 38 (3) a) de la Loi est abrogé et remplacé par ce qui suit :

a) soit omet, sans excuse raisonnable, de remplir le questionnaire ou de le renvoyer au shérif conformément au paragraphe 6 (5);

(3) L'alinéa 38 (3) b) de la Loi est modifié par remplacement de «la formule» par «de questionnaire» à la fin de l'alinéa.

(4) Le paragraphe 38 (4) de la Loi est abrogé et remplacé par ce qui suit :

Preuve

(4) Pour l'application du paragraphe (3), le fait pour le shérif de ne pas recevoir d'une personne, dans le délai précisé au paragraphe 6 (5), le questionnaire rempli pour la sélection d'un jury constitue la preuve, en l'absence de preuve contraire, qu'elle n'a pas renvoyé le questionnaire dans le délai imparti.

(5) Le paragraphe 38 (5) de la Loi est modifié par remplacement de «d'une formule de rapport» par «d'un questionnaire pour la sélection d'un jury rempli».

LOI SUR LES JUGES DE PAIX

35 L'article 6 de la *Loi sur les juges de paix* est modifié par adjonction du paragraphe suivant :

Nomination de juges de paix ayant atteint l'âge de 65 ans

(6) Le présent article s'applique, avec les adaptations nécessaires, à la personne nommée juge de paix ou juge de paix principal régional après qu'elle a atteint l'âge de 65 ans.

36 L'article 13.1 de la *Loi* est modifié par adjonction du paragraphe suivant :

Délégation

(6) Le juge en chef de la Cour de justice de l'Ontario peut déléguer le pouvoir d'exercer les fonctions que lui attribuent les paragraphes (2) à (5) relativement aux juges de paix d'une région au juge principal régional ou juge de paix principal régional de la région.

LOI SUR LES NOTAIRES

37 Le paragraphe 2 (1) de la *Loi sur les notaires* est modifié par remplacement de «Tout citoyen canadien, autre qu'un avocat, qui désire être nommé notaire ou être nommé notaire de nouveau» par «Toute personne, autre qu'un avocat, qui désire être nommée notaire ou être nommée notaire de nouveau» et par remplacement de «il réside» par «elle réside».

LOI SUR LES INFRACTIONS PROVINCIALES

38 L'article 30 de la *Loi sur les infractions provinciales* est modifié par adjonction du paragraphe suivant :

Délégation

(5) Le juge en chef de la Cour de justice de l'Ontario peut déléguer le pouvoir d'exercer les fonctions que lui attribue le paragraphe (2) ou (3) à l'égard des juges d'une région au juge principal régional ou au juge de paix principal régional de la région.

ENTRÉE EN VIGUEUR

Entrée en vigueur

39 (1) Sous réserve des paragraphes (2) et (3), la présente annexe entre en vigueur le jour où la *Loi de 2017* visant à réduire les formalités administratives inutiles reçoit la sanction royale.

(2) Les paragraphes 11 (3) et 20 (3) entrent en vigueur 18 mois après le jour où la *Loi de 2017* visant à réduire les formalités administratives inutiles reçoit la sanction royale.

(3) Les articles 27 à 34 entrent en vigueur le dernier en date du jour où la *Loi de 2017* visant à réduire les formalités administratives inutiles reçoit la sanction royale et du 1^{er} janvier 2018.

ANNEXE 3
ABROGATION DE LA LOI SUR LES EMPLOYEURS ET EMPLOYÉS

LOI SUR LES EMPLOYEURS ET EMPLOYÉS

1 La *Loi sur les employeurs et employés* est abrogée.

LOI SUR LES SOCIÉTÉS COOPÉRATIVES

2 Le paragraphe 103 (1) de la *Loi sur les sociétés coopératives* est modifié par suppression de «à laquelle s'applique la *Loi sur les employeurs et employés*».

LOI SUR LES INSTANCES INTRODUITES CONTRE LA COURONNE

3 Le paragraphe 2 (2) de la *Loi sur les instances introduites contre la Couronne* est modifié par abrogation de l'alinéa e).

ENTRÉE EN VIGUEUR

Entrée en vigueur

4 La présente annexe entre en vigueur le jour où la *Loi de 2017* visant à réduire les formalités administratives inutiles reçoit la sanction royale.

ANNEXE 4 LOI DE 2017 RÉDUISANT LES FRAIS LIÉS À LA RÉGLEMENTATION POUR LES ENTREPRISES

Préambule

L'Ontario s'engage à promouvoir un climat d'affaires vigoureux et propice à la croissance, tout en assurant une surveillance réglementaire appropriée axée sur la protection du public, des travailleurs et de l'environnement.

L'Ontario reconnaît qu'une réglementation moderne protège l'intérêt public, notamment la santé, la sécurité et l'environnement, en plus de favoriser la croissance économique, la prospérité et un climat d'affaires concurrentiel.

Dans le cadre de son initiative de modernisation de la réglementation, l'Ontario s'engage à réduire les formalités administratives inutiles tout en assurant la protection de l'intérêt public, en plus de répondre aux besoins des entreprises et de veiller à ce que la communication avec le gouvernement soit simple et efficace.

L'Ontario est déterminé à mettre en place un cadre réglementaire qui prend en considération tant les coûts que les avantages dans la prise de décision, fait appel à des normes reconnues, tient compte des besoins particuliers des petites entreprises, accorde une juste place au numérique et reconnaît les entreprises qui présentent d'excellents dossiers en matière de conformité.

INTERPRÉTATION

Définitions

1 (1) Les définitions qui suivent s'appliquent à la présente loi.

«entreprise» Sous réserve des règlements, s'entend notamment d'un commerce, d'un métier, d'une profession, d'un service ou d'une entreprise exploité, exercé ou rendu en vue de réaliser un bénéfice. («business»)

«frais administratifs» Frais que doit payer une entreprise pour se conformer à un règlement et qui sont prescrits pour l'application de la présente définition. («administrative cost»)

«normes reconnues» Exigences établies par des organismes d'élaboration de normes accrédités par le Conseil canadien des normes ou par des organismes semblables d'élaboration de normes. («recognized standards»)

«prescrit» Prescrit par les règlements pris en vertu de la présente loi. («prescribed»)

«règlement régi par la présente loi» S'entend de ce qui suit :

- a) sous réserve des exceptions prescrites, un règlement que prend ou approuve le lieutenant-gouverneur en conseil;
- b) tout autre règlement, ordonnance, arrêté, décret ou acte prescrit. («regulation governed by this Act»)

Prise ou approbation d'un règlement

(2) Il est entendu que la mention, dans la présente loi, de la prise ou de l'approbation d'un règlement régi par la présente loi vaut mention de la prise ou de l'approbation d'un nouveau règlement et de la prise ou de l'approbation d'une modification à un règlement existant.

LIMITATION DES FRAIS ADMINISTRATIFS

Compensation des frais administratifs

2 (1) Lorsqu'un règlement régi par la présente loi est pris ou approuvé et a pour effet d'engendrer des frais administratifs ou d'entraîner leur augmentation, une compensation prescrite doit être effectuée dans un délai prescrit après la prise ou l'approbation du règlement.

Intérêt public

(2) S'il est proposé d'effectuer une compensation prévue au paragraphe (1) au moyen d'un règlement que le lieutenant-gouverneur en conseil est appelé à prendre ou à approuver, ce dernier doit, avant de prendre ou d'approuver le règlement, l'examiner en tenant compte de la protection de l'intérêt public, notamment en matière de santé, de sécurité et de protection de l'environnement.

Étude d'impact de la réglementation

3 Lorsqu'il est proposé de prendre un règlement régi par la présente loi, le ministre chargé de l'application du règlement veille à ce que les mesures suivantes soient prises :

- a) une étude de l'impact possible de la réglementation, dont les frais administratifs prescrits, est menée dans les circonstances prescrites;
- b) l'étude est publiée de la façon prescrite.

CONFORMITÉ DES PETITES ENTREPRISES

Conformité des petites entreprises

4 (1) Le lieutenant-gouverneur en conseil et toute autre entité prescrite qui prend ou approuve un règlement régi par la présente loi et imposant des exigences aux entreprises veille à ce que le règlement contienne, s'il y a lieu, des exigences de conformité moins astreignantes à l'endroit des petites entreprises.

Idem

(2) Chaque ministre chargé de l'application d'un règlement régi par la présente loi veille à ce que, lorsque le règlement est examiné pour quelque motif que ce soit, une décision soit prise pour savoir si le règlement impose des exigences aux entreprises et, le cas échéant, à ce que des mesures soient prises pour modifier ou remplacer le règlement dans le but d'établir des exigences moins astreignantes à l'endroit des petites entreprises.

NORMES

Normes reconnues

5 (1) Le lieutenant-gouverneur en conseil et toute autre entité prescrite qui prend ou approuve un règlement régi par la présente loi et imposant des exigences aux entreprises veille à ce que le règlement adopte, s'il y a lieu, des normes reconnues.

Idem

(2) Chaque ministre chargé de l'application d'un règlement régi par la présente loi veille à ce que, lorsque le règlement est examiné pour quelque motif que ce soit, une décision soit prise pour savoir si le règlement impose des exigences aux entreprises et, le cas échéant, à ce que des mesures soient prises pour modifier ou remplacer le règlement dans le but d'adopter des normes reconnues.

TRANSMISSION ÉLECTRONIQUE DES DOCUMENTS

Transmission électronique des documents

6 L'entreprise qui, pour quelque motif que ce soit, est tenue de transmettre des documents à un ministère du gouvernement de l'Ontario pour se conformer à un règlement peut, au choix de l'entreprise, transmettre les documents par voie électronique.

RECONNAISSANCE DE L'EXCELLENCE EN MATIÈRE DE CONFORMITÉ

Reconnaissance de l'excellence en matière de conformité

7 Chaque ministère du gouvernement de l'Ontario qui administre des programmes de réglementation élabore un plan visant à reconnaître les entreprises qui excellent en matière de conformité aux exigences réglementaires.

IMMUNITÉ

Immunité

8 (1) Sont irrecevables les actions ou autres instances introduites contre la Couronne ou l'un de ses organismes pour tout acte accompli ou omis ou apparemment accompli ou omis dans le cadre de la présente loi.

Validité des règlements

(2) Les règlements ne sont pas invalides du seul fait qu'ils omettent de se conformer à une disposition de la présente loi.

RÈGLEMENTS

Règlements : ministre

9 Le ministre chargé de l'application de la présente loi peut, par règlement, prévoir des exemptions de toute exigence prévue à l'article 6 ou 7 et assortir les exemptions de conditions ou de restrictions.

Règlements : lieutenant-gouverneur en conseil

10 (1) Sous réserve de l'article 9, le lieutenant-gouverneur en conseil peut, par règlement, traiter de toute chose que prévoit la présente loi, ainsi que de la réalisation de l'objet de la présente loi et de l'application de ses dispositions.

Idem

(2) Sans préjudice de la portée générale du paragraphe (1), le lieutenant-gouverneur en conseil peut, par règlement :

- a) traiter de tout ce qui peut être prescrit en vertu de la présente loi;
- b) définir des mots ou expressions employés mais non par ailleurs définis dans la présente loi;
- c) prescrire des frais pour l'application de la définition de «frais administratifs» au paragraphe 1 (1);
- d) préciser la définition de «entreprise» au paragraphe 1 (1) et prévoir des exemptions à cette définition;

- e) régir le mode de calcul et de compensation des frais administratifs visé à l'article 2, prescrire des compensations, établir des exigences et des formules pour leur application et fixer les délais dans lesquels les compensations doivent être effectuées;
- f) régir l'étude exigée en application de l'article 3, notamment régir les circonstances dans lesquelles l'étude d'impact de la réglementation doit être menée, la portée des frais administratifs à prendre en compte dans l'étude et le mode de publication de l'étude;
- g) prévoir des exemptions à toute question prévue par la présente loi qui ne sont pas prévues à l'article 9 et les assortir de conditions ou de restrictions.

ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ

Entrée en vigueur

11 La loi figurant à la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Titre abrégé

12 Le titre abrégé de la loi figurant à la présente annexe est *Loi de 2017 réduisant les frais liés à la réglementation pour les entreprises*.

ANNEXE 5

MINISTÈRE DE L'ENVIRONNEMENT ET DE L'ACTION EN MATIÈRE DE CHANGEMENT CLIMATIQUE

LOI SUR LA PROTECTION DE L'ENVIRONNEMENT

1 (1) La définition de «ministre» au paragraphe 1 (1) de la *Loi sur la protection de l'environnement* est abrogée et remplacée par ce qui suit :

«ministre» Le ministre de l'Environnement et de l'Action en matière de changement climatique ou l'autre membre du Conseil exécutif à qui la responsabilité de l'application de la présente loi est assignée en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

(2) La définition de «ministère» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«ministère» Le ministère du ministre. («Ministry»)

(3) La disposition 2 du paragraphe 19 (12) de la Loi est modifiée par remplacement de «de la présente loi ou de la *Loi sur les ressources en eau de l'Ontario*» par «de toute loi dont l'application relève du ministre».

LOI SUR LES PESTICIDES

2 (1) La définition de «ministre» au paragraphe 1 (1) de la *Loi sur les pesticides* est abrogée et remplacée par ce qui suit :

«ministre» Le ministre de l'Environnement et de l'Action en matière de changement climatique ou l'autre membre du Conseil exécutif à qui la responsabilité de l'application de la présente loi est assignée en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

(2) La définition de «ministère» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«ministère» Le ministère du ministre. («Ministry»)

(3) Le paragraphe 1 (1) de la Loi est modifié par adjonction de la définition suivante :

«fonctionnaire» Fonctionnaire nommé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario*. («public servant»)

(4) Le paragraphe 3 (1) de la Loi est abrogé et remplacé par ce qui suit :

Nomination de directeurs

(1) Le ministre peut nommer, pour exercer les fonctions de directeur, les fonctionnaires qui travaillent dans le ministère, selon ce qu'il juge nécessaire pour faire appliquer les articles de la présente loi ou des règlements qui sont énoncés dans les nominations.

(5) Les paragraphes 5 (3) et (4) de la Loi sont abrogés.

(6) Le paragraphe 7 (1) de la Loi est abrogé et remplacé par ce qui suit :

Permis requis

(1) Si ce n'est en vertu d'un permis permettant de procéder à une destruction délivré par le directeur et en conformité avec ce permis, ou à moins d'être exempté par les règlements, nul ne doit procéder à une destruction de parasites terrestres ou à une destruction de parasites dans une structure :

- a) soit au moyen d'un pesticide prescrit pour l'application du présent article;
- b) soit au moyen d'un pesticide d'une catégorie prescrite pour l'application du présent article;
- c) soit selon les conditions d'utilisation prescrites pour l'application du présent article.

(7) Le paragraphe 7 (2) de la Loi est modifié par remplacement de «à moins d'être titulaire d'un permis, délivré par le directeur, permettant de procéder à une destruction de parasites aquatiques, ou à moins d'être exempté par les règlements» par «si ce n'est en vertu d'un permis permettant de procéder à une destruction de parasites aquatiques délivré par le directeur et en conformité avec ce permis, ou à moins d'être exempté par les règlements» à la fin du paragraphe.

(8) Les paragraphes 11 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :

Licences et permis : délivrance et renouvellement

(1) Le directeur doit :

- a) sous réserve du paragraphe (2), délivrer ou renouveler une licence visée à l'article 5 ou 6 à quiconque remplit les conditions suivantes :

- (i) il demande la licence ou un renouvellement de la licence conformément aux règlements,
 - (ii) il satisfait aux exigences des règlements à l'égard de la catégorie particulière de licence demandée,
 - (iii) il acquitte les droits prescrits;
- b) sous réserve du paragraphe (3), délivrer un permis visé à l'article 7 à quiconque remplit les conditions suivantes :
- (i) il demande le permis conformément aux règlements,
 - (ii) il satisfait aux exigences des règlements à l'égard du permis demandé,
 - (iii) il acquitte les droits prescrits.

Refus éventuel du directeur de délivrer ou de renouveler une licence

(2) Le directeur peut refuser de délivrer une licence à l'auteur d'une demande ou de renouveler la licence de l'auteur d'une demande dans les circonstances suivantes :

1. Lorsque l'une ou l'autre des conditions suivantes est remplie :
 - i. Si l'auteur de la demande est un particulier, une licence délivrée antérieurement à l'auteur de la demande, ou à une personne morale dont l'auteur de la demande était un dirigeant ou un administrateur, a été suspendue ou révoquée par le directeur en application de l'article 13 au cours de la période de cinq années précédant la date de la demande, ou est visée par un avis d'intention de suspension ou de révocation signifié par le directeur en application de l'alinéa 13 (1) b).
 - ii. Si l'auteur de la demande est une personne morale, une licence délivrée antérieurement à l'une des personnes suivantes a été suspendue ou révoquée par le directeur en application de l'article 13 au cours de la période de cinq années précédant la date de la demande, ou est visée par un avis d'intention de suspension ou de révocation signifié par le directeur en application de l'alinéa 13 (1) b) :
 - A. L'auteur de la demande,
 - B. Un dirigeant ou un administrateur de l'auteur de la demande,
 - C. Une personne morale ayant un dirigeant ou un administrateur en commun avec l'auteur de la demande.
2. Lorsque l'une ou l'autre des conditions suivantes est remplie :
 - i. Le directeur est d'avis que si la licence était délivrée ou renouvelée, l'auteur de la demande ne se conformerait pas aux exigences prévues par la présente loi ou par un arrêté pris ou une ordonnance rendue en application de celle-ci.
 - ii. Une situation prévue au paragraphe (2.2) existe ou existerait en cas de délivrance ou de renouvellement de la licence.

Idem

(2.1) Pour l'application de la disposition 1 du paragraphe (2), un particulier était un dirigeant ou un administrateur d'une personne morale s'il en était dirigeant ou administrateur au moment de la suspension ou de la révocation de la licence ou au moment où sont apparues les circonstances ayant mené à la suspension ou à la révocation.

Suspension et révocation d'une licence

(2.2) Sous réserve de l'article 13, le directeur peut suspendre ou révoquer une licence s'il est d'avis que, selon le cas :

- a) le titulaire de la licence contrevient à la présente loi ou aux règlements;
- b) le titulaire de la licence a présenté des renseignements faux ou trompeurs dans une demande de licence;
- c) le titulaire de la licence contrevient à l'une des conditions de la licence;
- d) le titulaire de la licence ou, s'il s'agit d'une personne morale, ses dirigeants ou administrateurs, n'ont pas la compétence nécessaire pour exercer l'activité qu'autorise la licence;
- e) la conduite passée du titulaire de la licence ou, s'il s'agit d'une personne morale, celle d'un de ses dirigeants ou administrateurs, offre des motifs raisonnables de croire que l'activité qu'autorise la licence ne sera pas exercée avec honnêteté et intégrité;
- f) le titulaire de la licence n'a pas à sa disposition les lieux, les installations et le matériel nécessaires pour exercer l'activité que la licence autorise conformément à la présente loi, aux règlements et à la licence;
- g) le titulaire de la licence n'est pas en état d'observer ou d'exécuter les dispositions de la présente loi, des règlements et de la licence;
- h) le titulaire de la licence a fait preuve de négligence grave dans l'exercice de l'activité qu'autorise la licence.

- i) le titulaire de la licence a fait de fausses allégations au sujet des services qu'il offre lorsqu'il procède à une destruction ou lorsqu'il exploite une entreprise de destruction;
- j) le titulaire de la licence n'a pas payé une amende imposée sur déclaration de culpabilité pour une infraction à la présente loi.

(9) Les alinéas 11 (3) a) et b) de la Loi sont abrogés et remplacés par ce qui suit :

- a) qu'une destruction pour laquelle le permis est exigé n'a pas été ou ne sera pas exécutée de façon compétente;
- b) qu'une destruction pour laquelle le permis est exigé n'a pas été ou ne sera pas exécutée conformément aux dispositions de la présente loi, des règlements ou du permis;
- b.1) qu'une destruction pour laquelle le permis est exigé a été ou sera exécutée de façon gravement négligente;
- b.2) que l'auteur de la demande ou le titulaire de permis a présenté des renseignements faux ou trompeurs dans une demande de permis;
- b.3) que le titulaire de permis contrevient à l'une des conditions du permis;
- b.4) que l'auteur de la demande ou le titulaire de permis n'a pas payé une amende imposée sur déclaration de culpabilité pour une infraction à la présente loi;

(10) Le paragraphe 13 (6) de la Loi est abrogé et remplacé par ce qui suit :

Maintien de la licence en attendant son renouvellement

(6) A moins qu'un avis signifié en application du paragraphe (1) indique que le paragraphe 11 (2) s'applique à l'égard de la demande, si le titulaire d'une licence en a demandé le renouvellement et a acquitté les droits prescrits dans le délai prescrit ou, lorsqu'aucun délai n'a été prescrit, avant l'expiration de sa licence, la licence est réputée rester en vigueur pour la plus courte des périodes suivantes :

1. De l'expiration de la licence jusqu'à ce que le renouvellement soit accordé.
2. De la date de la demande et de l'acquiescement des droits jusqu'à ce que le renouvellement soit accordé.

(11) Le paragraphe 13 (8) de la Loi est modifié par remplacement de «Si le directeur refuse» par «Si le directeur délivre un permis sous réserve d'une condition, refuse» au début du paragraphe.

(12) Les paragraphes 13 (9) et (10) de la Loi sont abrogés et remplacés par ce qui suit :

Avis

(8.1) L'avis signifié en application du paragraphe (8) informe l'auteur de la demande ou le titulaire de permis de ce qui suit :

1. L'auteur de la demande ou le titulaire de permis a le droit de présenter des observations au directeur en vertu du paragraphe (9) en personne ou par l'intermédiaire d'une personne autorisée en vertu de la *Loi sur le Barreau* à le représenter, par téléphone ou autrement au plus tard sept jours après la signification de l'avis.
2. S'il ne présente pas d'observations, l'auteur de la demande ou le titulaire de permis a droit à une audience par le Tribunal. Il doit pour cela envoyer par courrier ou remettre au directeur et au Tribunal, au plus tard quinze jours après avoir reçu signification de l'avis, un avis dans lequel il demande une audience.

Observations en vue du réexamen

(9) Si le directeur signifie ou fait signifier un avis de décision en application du paragraphe (8), l'auteur de la demande ou le titulaire de permis, selon le cas, peut présenter des observations au directeur au plus tard sept jours après la signification de l'avis.

Réexamen

(9.1) Au plus tard sept jours après avoir reçu les observations visées au paragraphe (9), le directeur réexamine la décision et la modifie, l'annule ou la confirme, et il signifie ou fait signifier un avis motivé et écrit informant l'auteur de la demande ou le titulaire de permis de la modification, de l'annulation ou de la confirmation.

Idem

(9.2) Si le directeur modifie ou annule la décision, il prend les mesures qui s'imposent pour que la modification ou l'annulation prenne effet.

Avis

(10) Un avis visé au paragraphe (9.1) informe l'auteur de la demande ou le titulaire de permis de son droit à une audience par le Tribunal. L'auteur de la demande ou le titulaire de permis doit pour cela envoyer par courrier ou remettre au directeur et au Tribunal, au plus tard quinze jours après avoir reçu signification de l'avis, un avis dans lequel il demande une audience.

(13) Le paragraphe 13 (12) de la Loi est modifié par remplacement de «du paragraphe (10)» par «de la disposition 2 du paragraphe (8.1) et du paragraphe (10)» à la fin du paragraphe.

(14) La disposition 4 du paragraphe 16 (1) de la Loi est modifiée par suppression de «employé aux termes de la partie III de la Loi de 2006 sur la fonction publique de l'Ontario».

(15) Le paragraphe 17 (1) de la Loi est abrogé et remplacé par ce qui suit :

Agents provinciaux

(1) Le ministre peut désigner un ou plusieurs fonctionnaires qui travaillent dans le ministère ou d'autres personnes comme agents provinciaux chargés d'exercer les pouvoirs et les fonctions prévus par la présente loi qu'il précise.

Limitation des pouvoirs

(1.1) Lorsqu'il désigne un agent provincial, le ministre peut limiter les pouvoirs de celui-ci de la façon qu'il juge nécessaire ou opportune.

(16) Le paragraphe 24.3 (6) de la Loi est abrogé et remplacé par ce qui suit :

Aucune ordonnance de redressement

(6) Le tribunal ne doit pas rendre d'ordonnance de redressement en vertu du paragraphe (5) à l'égard d'une chose confisquée si la personne qui demande le redressement a été accusée d'une infraction liée à la saisie de la chose, à moins que l'accusation n'ait été retirée ou rejetée.

(17) La disposition 1 du paragraphe 35 (1) de la Loi est modifiée par remplacement de «des conditions d'obtention et de renouvellement des licences» par «des conditions de délivrance et de renouvellement des licences» à la fin de la disposition.

(18) La disposition 3 du paragraphe 35 (1) de la Loi est modifiée par suppression de «et en fixer les droits» à la fin de la disposition.

(19) La disposition 5 du paragraphe 35 (1) de la Loi est abrogée et remplacée par ce qui suit :

5. prévoir les modalités de délivrance des permis et les conditions de leur obtention:

5.1 regir les demandes de délivrance de licences et de permis et les demandes de renouvellement de licences, y compris les délais et les modalités liés à la présentation d'une demande, et prescrire les circonstances dans lesquelles une demande ne peut pas être présentée;

5.2 prescrire les conditions auxquelles les auteurs d'une demande doivent satisfaire pour obtenir la délivrance d'une licence ou d'un permis ou le renouvellement de leur licence, notamment les qualités requises, l'éducation et la formation;

(20) La disposition 7 du paragraphe 35 (1) de la Loi est modifiée par suppression de «, et en fixer les droits» à la fin de la disposition.

(21) La disposition 8 du paragraphe 35 (1) de la Loi est modifiée par remplacement de «des demandes de licence et de permis» par «des demandes de délivrance de licences et de permis».

(22) La disposition 9 du paragraphe 35 (1) de la Loi est modifiée par remplacement de «des auteurs de demandes de licences» par «des auteurs de demandes de délivrance ou de renouvellement de licences».

(23) Le paragraphe 35 (1) de la Loi est modifié par adjonction de la disposition suivante :

9.1 prévoit les questions transitoires que le lieutenant-gouverneur en conseil estime nécessaires ou souhaitables relativement aux demandes de licence électroniques;

(24) Les dispositions 25, 31, 32 et 33 du paragraphe 35 (1) de la Loi sont modifiées par suppression de «désigné», de «désignée» et de «désignés» partout où figurent ces termes.

(25) La disposition 49 du paragraphe 35 (1) de la Loi est modifiée par adjonction de «si ce n'est prescrire une question ou traiter d'une question à l'égard de laquelle le ministre peut prendre des règlements en vertu de l'article 37» à la fin de la disposition.

(26) Les paragraphes 36 (2) à (4) de la Loi sont abrogés et remplacés par ce qui suit :

Adoption de documents dans les règlements

(2) Les règlements peuvent adopter par renvoi, avec les modifications que le lieutenant-gouverneur en conseil estime nécessaires, tout ou partie d'un document, notamment un code, une formule, une norme, un protocole ou une procédure, et en exiger l'observation.

Incorporation continue par renvoi

(3) Le pouvoir d'adopter par renvoi un document et d'en exiger l'observation en vertu du paragraphe (2) comprend le pouvoir de l'adopter dans ses versions successives.

Prise d'effet

(4) L'adoption d'une modification apportée à un document qui a été adopté par renvoi prend effet dès que le ministère publie un avis de la modification dans la *Gazette de l'Ontario* ou dans le registre prévu par la *Charte des droits environnementaux de 1993*.

(27) L'article 37 de la Loi est abrogé et remplacé par ce qui suit :

Règlements pris par le ministre

37 (1) Le ministre peut prendre des règlements à l'égard des questions suivantes :

1. Imposer des droits sur tout ce qui est fait ou demandé d'être fait en application de la présente loi, en prescrire le mode et le délai de paiement et autoriser le remboursement de droits dans des circonstances prescrites.

Exemptions

(2) Les règlements pris en vertu du paragraphe (1) peuvent dispenser une personne ou une catégorie de personnes de l'application d'une exigence précisée qu'ils imposent dans les circonstances prescrites ou prévoir qu'une exigence précisée ne s'applique pas à la personne ou à la catégorie dans les circonstances prescrites.

(28) Le paragraphe 46.1 (5) de la Loi est abrogé et remplacé par ce qui suit :

Aucun dédommagement pour l'auteur de l'infraction

(5) Le tribunal ne doit pas rendre d'ordonnance de dédommagement en faveur d'une personne en raison de dommages qui résultent de la commission d'une infraction par la personne.

(29) Le paragraphe 46.2 (6) de la Loi est abrogé et remplacé par ce qui suit :

Aucune ordonnance de redressement

(6) Le tribunal ne doit pas rendre d'ordonnance de redressement en vertu du paragraphe (5) à l'égard d'une chose confisquée si le requérant a été accusé d'une infraction liée à la saisie de la chose, à moins que l'accusation n'ait été retirée ou rejetée.

(30) L'alinéa 47 (1) b) de la Loi est modifié par remplacement de «qu'aucune licence ne soit accordée» par «qu'aucun permis ne soit accordé».

ENTRÉE EN VIGUEUR**Entrée en vigueur**

3 La présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

ANNEXE 6
MINISTÈRE DES SERVICES GOUVERNEMENTAUX ET DES SERVICES AUX CONSOMMATEURS —
MODIFICATIONS VISANT LES COMPAGNIES

LOI SUR LES SOCIÉTÉS PAR ACTIONS

1 (1) L'alinéa c) de la définition de «copie certifiée conforme» au paragraphe 1 (1) de la Loi sur les sociétés par actions est abrogé et remplacé par ce qui suit :

- c) relativement à un document dont le directeur a la garde, copie du document certifiée conforme par le directeur et qui porte sa signature ou celle de tout autre fonctionnaire employé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* et désigné par les règlements. («certified copy»)

(2) La définition de «jour» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«jour» Jour franc. («day»)

(3) La version française de l'alinéa a) de la définition de «signature électronique» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

- a) il est créé ou communiqué par un moyen de communication téléphonique ou électronique;

(4) Les définitions de «apposer», «fondateur», «ministre» et «voie téléphonique ou électronique» au paragraphe 1 (1) de la Loi sont abrogées et remplacées par ce qui suit :

«fondateur» Personne qui signe des statuts constitutifs ou les autorise d'une autre façon. («incorporator»)

«ministre» Le membre du Conseil exécutif à qui la responsabilité de l'application de la présente loi est assignée ou transférée en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

«moyen de communication téléphonique ou électronique» Tout moyen de communication qui fait appel au téléphone ou à tout autre moyen électronique ou technologique pour transmettre des renseignements ou des données — appel ou message téléphonique, télécopie, courrier électronique, système automatisé de téléphone à clavier, ordinateur ou réseau informatique. («telephonic or electronic means»)

«produire» S'entend notamment de ce qui suit :

- a) l'apposition d'une estampille au recto des statuts ou des autres documents envoyés au directeur;
- b) la création électronique de l'équivalent d'une estampille à l'égard des statuts ou des autres documents envoyés au directeur. («endorse»)

(5) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Interprétation : période de jours

(8) Pour l'application de la présente loi, une période de jours est réputée commencer le jour qui suit l'événement qui marque le début de la période et prendre fin à minuit le dernier jour de cette période. Toutefois, si le dernier jour de la période tombe un jour férié, la période prend fin à minuit le prochain jour qui n'est pas un jour férié.

2 La version française de la disposition 3 du paragraphe 3.2 (2) de la Loi est abrogée et remplacée par ce qui suit :

- 3 La dénomination sociale de la société doit comprendre l'expression «société professionnelle» ou «Professional Corporation» et être conforme aux règles concernant les dénominations sociales des sociétés professionnelles qui sont énoncées dans les règlements et aux règles concernant les dénominations sociales qui sont énoncées dans les règlements pris ou les règlements administratifs adoptés en vertu de la loi qui régit la profession

3 (1) Les paragraphes 5 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :

Contenu des statuts

(1) Les statuts constitutifs doivent être rédigés selon le formulaire approuvé par le directeur et comporter les renseignements exigés par la présente loi, par les règlements ou par le directeur.

Consentement du premier administrateur

(2) La société conserve à son siège social le consentement à agir comme premier administrateur, rédigé selon le formulaire approuvé :

- a) de chaque particulier qui n'est pas un fondateur et que les statuts désignent premier administrateur;
- b) de chaque particulier fondateur que les statuts désignent premier administrateur, si ceux-ci sont envoyés au directeur sous forme électronique et que le consentement est exigé par les règlements.

(2) L'article 5 de la Loi est modifié par adjonction du paragraphe suivant :

Copie du consentement

(2.2) Le directeur peut, à tout moment et au moyen d'un avis, exiger qu'une copie du consentement visé au paragraphe (2) lui soit fournie dans le délai indiqué dans l'avis.

4 L'article 6 de la Loi est abrogé et remplacé par ce qui suit :**Certificat de constitution**

6 Un fondateur envoie au directeur les statuts constitutifs et les autres documents et renseignements exigés et, à la réception des statuts, des documents et des renseignements, le directeur produit à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat de constitution.

5 (1) La version française du paragraphe 8 (1) de la Loi est abrogée et remplacée par ce qui suit :**Attribution d'un numéro**

(1) Le directeur attribue à la société un numéro, qui figure dans le certificat de constitution ainsi que dans tout autre certificat concernant cette société produit ou délivré par le directeur comme étant le numéro de la société.

(2) Les paragraphes 8 (3) et (4) de la Loi sont abrogés et remplacés par ce qui suit :**Modification du numéro de la société ou de la dénomination sociale numérique**

(3) Si, par mégarde ou autrement, le directeur a attribué à la société un numéro ou une dénomination sociale numérique identique au numéro ou à la dénomination sociale numérique déjà attribué à une autre société, il peut, sans tenir d'audience, modifier le numéro ou la dénomination sociale numérique attribué à la société. Par la suite, tout certificat produit pour la société sous le régime de la présente loi doit porter le nouveau numéro ou la nouvelle dénomination sociale numérique de la société.

Nouvelle délivrance de certificat de constitution ou de fusion

(3.1) Si un nouveau numéro ou une nouvelle dénomination sociale numérique est attribué à une société en vertu du paragraphe (3), le directeur peut délivrer de nouveau le plus récent certificat avant été délivré à la société, qu'il s'agisse du certificat de constitution ou du certificat de fusion. Le certificat nouvellement délivré doit porter le nouveau numéro ou la nouvelle dénomination sociale numérique de la société.

Substitution du certificat produit

(4) Si, pour une raison quelconque, le directeur a produit, à l'égard des statuts, un certificat qui indique le numéro ou la dénomination sociale numérique de la société de façon erronée, il peut, sans tenir d'audience, y substituer un certificat rectifié portant la date du certificat qu'il remplace.

Attribution de numéros de société à des personnes morales

(4.1) Le directeur peut, s'il l'estime indiqué, attribuer un numéro de société à une personne morale à laquelle n'a pas déjà été attribué de numéro.

6 Les paragraphes 25 (4) et (5) de la Loi sont abrogés et remplacés par ce qui suit :**Description des actions spéciales**

(4) Les administrateurs qui exercent, à l'égard d'une série d'actions, les pouvoirs qui leur sont conférés envoient au directeur, avant d'émettre les actions de la série, des statuts de modification décrivant la série ainsi que les autres documents et renseignements exigés.

Certificats relatifs aux actions spéciales

(5) À la réception des statuts de modification décrivant une série d'actions visés au paragraphe (4) et des autres documents et renseignements exigés, le directeur produit à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat de modification.

7 La version française du paragraphe 94 (2) de la Loi est modifiée par remplacement de «par voie téléphonique ou électronique» par «par un moyen de communication téléphonique ou électronique».**8 (1) Les paragraphes 99 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :****Diffusion de la proposition**

(2) Lorsqu'une société reçoit un avis de proposition :

- a) si la société fournit une circulaire d'information de la direction, elle fait figurer la proposition dans cette circulaire ou l'annexe à celle-ci;
- b) si la société ne fournit pas de circulaire d'information de la direction, elle fait figurer la proposition dans l'avis de l'assemblée des actionnaires à laquelle il est proposé de soulever la question ou l'annexe à cet avis.

Déclaration à l'appui de la proposition

(3) A la demande de la personne qui dépose un avis de proposition, la société joint ou annexe à la circulaire d'information de la direction visée à l'alinéa (2) a), ou à l'avis de l'assemblée visé à l'alinéa (2) b), un exposé préparé par cette personne à l'appui de sa proposition, ainsi que ses nom et adresse.

(2) L'alinéa 99 (5) a) de la Loi est abrogé et remplacé par ce qui suit :

a) dans le cas d'une société faisant appel au public, l'avis de proposition est déposé auprès d'elle moins de 60 jours avant :

- (i) l'expiration d'un délai d'un an à compter de la dernière assemblée annuelle, s'il est proposé de soulever la question à une assemblée annuelle,
- (ii) la date d'une assemblée autre que l'assemblée annuelle, s'il est proposé de soulever la question à une assemblée autre que l'assemblée annuelle;

a.1) dans le cas d'une société autre qu'une société faisant appel au public, l'avis de proposition est déposé auprès d'elle moins du nombre minimal de jours fixé en application du paragraphe (5.1) avant :

- (i) l'expiration d'un délai d'un an à compter de la dernière assemblée annuelle, s'il est proposé de soulever la question à une assemblée annuelle,
- (ii) la date d'une assemblée autre que l'assemblée annuelle, s'il est proposé de soulever la question à une assemblée autre que l'assemblée annuelle;

(3) Les alinéas 99 (5) c) et d) de la Loi sont abrogés et remplacés par ce qui suit :

c) dans les deux ans précédant la réception, par la société, de son avis de proposition, la personne ou son fondé de pouvoir a omis de présenter, à une assemblée des actionnaires de la société, une proposition qu'elle avait présentée et que la société avait fait figurer dans une circulaire d'information de la direction ou dans un avis d'assemblée relatif à cette assemblée des actionnaires;

d) il s'est produit ce qui suit :

- (i) une proposition à peu près identique a été soumise aux actionnaires de la société dans une circulaire d'information de la direction, une circulaire d'information d'un dissident ou un avis d'assemblée relatif à une assemblée des actionnaires précédente,
- (ii) l'assemblée précédente visée au sous-alinéa (i) a eu lieu dans les cinq ans, ou dans l'autre période prescrite, précédant la réception par la société de l'avis de proposition actuel,
- (iii) lors de l'assemblée précédente, la proposition n'a pas reçu l'appui minimum requis en application du paragraphe (5.4).

(4) L'article 99 de la Loi est modifié par adjonction des paragraphes suivants :

Délai minimum pour le dépôt d'une proposition : société ne faisant pas appel au public

(5.1) Pour l'application de l'alinéa (5) a.1) :

- a) le nombre minimal de jours est celui précisé dans les statuts, les règlements administratifs ou une convention unanime des actionnaires, si ce nombre est :
 - (i) d'au plus 60,
 - (ii) d'au moins 21, ou tout autre nombre prescrit;
- b) si le nombre minimal de jours précisé dans les statuts, les règlements administratifs ou une convention unanime des actionnaires est de moins de 21 ou moins de tout autre nombre prescrit, le nombre minimal de jours est de 21 ou le nombre prescrit, selon le cas;
- c) si le nombre minimal de jours précisé dans les statuts, les règlements administratifs ou une convention unanime des actionnaires est supérieur à 60, ou si aucun nombre minimal de jours n'y est précisé, le nombre minimal de jours est de 60.

Réception de la proposition par une société ne faisant pas appel au public après l'envoi de l'avis d'assemblée

(5.2) Si une société autre qu'une société faisant appel au public reçoit l'avis d'une proposition qui sera soulevée à une assemblée des actionnaires et est tenue de se conformer aux paragraphes (2) et (3), mais que l'avis de proposition est reçu après qu'elle a déjà envoyé un avis de l'assemblée, la société envoie la proposition et, à la demande de la personne qui a déposé l'avis de proposition, envoie également l'exposé que celle-ci a préparé à l'appui de la proposition ainsi que ses nom et adresse aux personnes qui ont le droit de recevoir l'avis de l'assemblée des actionnaires en application de l'article 96, et ce au moins 10 jours avant l'assemblée.

Présomption

(5.3) Si la société envoie le ou les documents exigés par le paragraphe (5.2) aux personnes et dans le délai exigés par ce paragraphe, ces documents sont réputés, à toutes fins, figurer dans la circulaire d'information de la direction visée à l'alinéa (2) a) ou dans l'avis de l'assemblée des actionnaires visé à l'alinéa (2) b), selon le cas, comme l'exigent les paragraphes (2) et (3).

Appui minimum

(5.4) Pour l'application du sous-alinéa (5) d) (iii), l'appui minimum que la proposition doit avoir reçu lors de l'assemblée précédente est établi comme suit :

1. Si l'assemblée précédente marquait la première fois, pendant la période visée au sous-alinéa 5 d) (ii), qu'une proposition à peu près identique a été soumise à une assemblée des actionnaires, l'appui minimum que doit avoir reçu la proposition lors de cette assemblée précédente est de 3 %, ou l'autre pourcentage prescrit, du nombre total des voix liées aux actions avec droit de vote exprimées à cette assemblée.
2. Si l'assemblée précédente marquait la deuxième fois, pendant la période visée au sous-alinéa 5 d) (ii), qu'une proposition à peu près identique a été soumise à une assemblée des actionnaires, l'appui minimum que doit avoir reçu la proposition lors de cette assemblée précédente est de 6 %, ou l'autre pourcentage prescrit, du nombre total des voix liées aux actions avec droit de vote exprimées à cette assemblée.
3. Si l'assemblée précédente marquait au moins la troisième fois, pendant la période visée au sous-alinéa 5 d) (ii), qu'une proposition à peu près identique a été soumise à une assemblée des actionnaires, l'appui minimum que doit avoir reçu la proposition lors de cette assemblée précédente est de 10 %, ou l'autre pourcentage prescrit, du nombre total des voix liées aux actions avec droit de vote exprimées à cette assemblée.

(5) Le paragraphe 99 (7) de la Loi est abrogé et remplacé par ce qui suit :

Avis de refus

(7) Dans un délai de 10 jours après avoir reçu d'une personne l'avis de proposition visé à l'alinéa (1) a), la société qui a l'intention de refuser de diffuser la proposition comme l'exige le présent article donne à la personne un avis en ce sens ainsi qu'un énoncé des motifs à l'appui de son refus.

9 La version française de la définition de «formule de procuration» à l'article 109 de la Loi est modifiée par remplacement de «par voie téléphonique ou électronique» par «par un moyen de communication téléphonique ou électronique».

10 La version française de l'alinéa 110 (4) b) de la Loi est modifiée par remplacement de «par voie téléphonique ou électronique» par «par un moyen de communication téléphonique ou électronique».

11 L'article 119 de la Loi est modifié par adjonction du paragraphe suivant :

Copie du consentement

(12) Le directeur peut, à tout moment et au moyen d'un avis, exiger qu'une copie du consentement visé au paragraphe (9) ou (10) lui soit fournie dans le délai indiqué dans l'avis.

12 Le paragraphe 149 (8) de la Loi est modifié par suppression de «ou du directeur».

13 Le paragraphe 171 (1) de la Loi est abrogé et remplacé par ce qui suit :

Statuts de modification

(1) Les statuts de modification et les autres documents et renseignements exigés sont envoyés au directeur.

14 L'article 172 de la Loi est abrogé et remplacé par ce qui suit :

Certificat de modification

172 À la réception des statuts de modification et des autres documents et renseignements exigés, le directeur produit à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat de modification.

15 Les paragraphes 173 (1), (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Mise à jour des statuts constitutifs

(1) Les administrateurs peuvent à tout moment mettre à jour les statuts constitutifs tels qu'ils sont modifiés et doivent le faire lorsque le directeur le leur ordonne.

Idem

(2) Les statuts constitutifs mis à jour et les autres documents et renseignements exigés sont envoyés au directeur.

Certificat de constitution mis à jour

(3) À la réception des statuts constitutifs mis à jour et des autres documents et renseignements exigés, le directeur produit à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat de constitution mis à jour.

16 La version française du paragraphe 176 (5) de la Loi est modifiée par remplacement de «avant l'apposition du certificat de fusion» par «avant la production du certificat de fusion».

17 Les paragraphes 178 (1) et (4) de la Loi sont abrogés et remplacés par ce qui suit :

Statuts de fusion

(1) Sous réserve du paragraphe 176 (5), après l'adoption de la fusion en application de l'article 176 ou son approbation en application de l'article 177, les statuts de fusion et les autres documents et renseignements exigés sont envoyés au directeur.

Certificat de fusion

(4) À la réception des statuts de fusion et des autres documents et renseignements exigés, le directeur produit à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat de fusion.

18 (1) Les paragraphes 180 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :

Statuts de maintien

(1) Une personne morale peut demander au directeur de lui délivrer un certificat de maintien dans l'un ou l'autre des cas suivants :

- a) elle est constituée ou maintenue en vertu des lois d'une autorité législative autre que l'Ontario et les lois de cette autorité législative l'autorisent à présenter la demande;
- b) il s'agit d'une personne morale qui est une compagnie à caractère social au sens de la *Loi sur les personnes morales* et, selon le cas :
 - (i) les actionnaires autorisent ses administrateurs, par voie de résolution spéciale, à demander au directeur de délivrer à la personne morale un certificat de maintien en vertu de la présente loi,
 - (ii) elle a obtenu une ordonnance du tribunal mentionnée au paragraphe 2.1 (5) de la *Loi sur les personnes morales*.

Idem

(2) Les statuts de maintien et les autres documents et renseignements exigés sont envoyés au directeur.

(2) L'alinéa 180 (1) b) de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé et remplacé par ce qui suit :

- b) il s'agit d'une personne morale qui est une compagnie à caractère social au sens de la *Loi sur les personnes morales* et les actionnaires autorisent ses administrateurs, par voie de résolution spéciale, à demander au directeur de délivrer à la personne morale un certificat de maintien en vertu de la présente loi.

(3) Le paragraphe 180 (3) de la Loi est modifié par remplacement de «en vertu des lois de l'Ontario» par «en vertu de la présente loi» partout où figure cette expression et par remplacement de «aux lois de l'Ontario» par «à la présente loi».

(4) Les paragraphes 180 (4) et (6) de la Loi sont abrogés et remplacés par ce qui suit :

Production du certificat de maintien

(4) À la réception des statuts de maintien et des autres documents et renseignements exigés, le directeur peut, sous réserve des conditions et restrictions qu'il estime appropriées, produire à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat de maintien.

Avis de maintien

(6) Dans le cas d'une personne morale visée à l'alinéa (1) a), le directeur peut aviser de la délivrance du certificat de maintien le fonctionnaire ou l'organisme public compétent de l'autorité législative ou a été autorisé le maintien sous le régime de la présente loi.

19 (1) L'alinéa 181 (3) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) par le directeur lorsque, à la réception d'une demande de la société et des autres documents et renseignements exigés, il produit une autorisation à l'égard de la demande.

(2) La version française du paragraphe 181 (4) de la Loi est abrogée et remplacée par ce qui suit :

Autorisation du directeur

(4) S'il est convaincu que la demande n'est pas interdite par le paragraphe (9), le directeur peut produire l'autorisation.

(3) La version française du paragraphe 181 (6) de la Loi est modifiée par remplacement de «la date de l'apposition de l'autorisation» par «la date de la production de l'autorisation».

(4) L'article 181 de la Loi est modifié par adjonction du paragraphe suivant :

Avis tenant lieu de dépôt

(7.1) Si le fonctionnaire ou l'organisme public compétent de l'autre compétence législative l'avise qu'il a délivré un acte de maintien à la société, le directeur peut, s'il l'estime indiqué et s'il est convaincu que la société a satisfait aux exigences prévues par le présent article, aviser celle-ci qu'elle est réputée s'être conformée au paragraphe (7).

20 (1) L'alinéa 181.1 (3) b) de la Loi est abrogé et remplacé par ce qui suit :

b) par le directeur lorsque, à la réception d'une demande de la société et des autres documents et renseignements exigés, il produit une autorisation à l'égard de la demande.

(2) La version française du paragraphe 181.1 (5) de la Loi est modifiée par remplacement de «la date de l'apposition de l'autorisation» par «la date de la production de l'autorisation».

(3) Le paragraphe 181.1 (6) de la Loi est abrogé.

21 La Loi est modifiée par adjonction de l'article suivant :

Prorogation comme personne morale sans capital-actions

181.2 (1) La société qui y est autorisée par ses actionnaires conformément au présent article peut demander d'être prorogée comme personne morale sans capital-actions en vertu de la *Loi de 2010 sur les organisations sans but lucratif*.

Avis aux actionnaires

(2) Est incluse dans l'avis de l'assemblée des actionnaires convoquée pour autoriser la demande visée au paragraphe (1), ou annexée à celui-ci, une mention du droit des actionnaires dissidents de se voir verser la juste valeur de leurs actions conformément à l'article 185. Toutefois, l'omission de cette mention n'a pas pour effet d'invalider l'autorisation visée au paragraphe (3).

Autorisation

(3) La demande de prorogation est autorisée par les actionnaires lorsque ceux qui votent sur la question ont approuvé le maintien par voie de résolution spéciale conformément à l'article 115 de la *Loi de 2010 sur les organisations sans but lucratif*.

Renonciation à la demande

(4) S'ils y sont autorisés par les actionnaires, les administrateurs de la société peuvent renoncer à la demande, sans autre approbation des actionnaires.

Cessation d'effet

(5) La présente loi cesse de s'appliquer à la société le jour où celle-ci est prorogée en vertu de la *Loi de 2010 sur les organisations sans but lucratif*.

22 L'article 182 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(5.1) La société qui présente une requête au tribunal en vertu du paragraphe (5) en avise le directeur et celui-ci a le droit de comparaître devant le tribunal et d'être entendu en personne ou par l'intermédiaire d'un avocat.

23 L'article 183 de la Loi est abrogé et remplacé par ce qui suit :

Envoi des statuts d'arrangement au directeur

183 (1) Une fois rendue l'ordonnance visée à l'alinéa 182 (5) f), les statuts d'arrangement et les autres documents et renseignements exigés sont envoyés au directeur.

Certificat d'arrangement

(2) À la réception des statuts d'arrangement et des autres documents et renseignements exigés, le directeur produit à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat d'arrangement.

Date d'effet des statuts d'arrangement

(3) Les statuts d'arrangement prennent effet à la date précisée dans le certificat d'arrangement.

24 Le paragraphe 185 (1) de la Loi est modifié par adjonction des alinéas suivants :

d.1) d'obtenir son maintien en vertu de la *Loi sur les sociétés coopératives* conformément à l'article 181.1;

d.2) d'obtenir sa prorogation en vertu de la *Loi de 2010 sur les organisations sans but lucratif* conformément à l'article 181.2;

25 Les paragraphes 186 (4) et (5) de la Loi sont abrogés et remplacés par ce qui suit :

Statuts de réorganisation

(4) Après la réorganisation, les statuts de réorganisation et les autres documents et renseignements exigés sont envoyés au directeur.

Certificat

(5) À la réception des statuts de réorganisation et des autres documents et renseignements exigés, le directeur produit à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat de modification, auquel cas les statuts sont modifiés en conséquence.

26 Le paragraphe 193 (4) de la Loi est abrogé et remplacé par ce qui suit :

Avis de résolution

(4) Dans les 10 jours de l'adoption de la résolution demandant la liquidation volontaire de la société, cette dernière dépose auprès du directeur un avis de cette résolution, rédigé selon le formulaire approuvé.

27 Les paragraphes 205 (2) et (6) de la Loi sont abrogés et remplacés par ce qui suit :

Avis de la tenue d'une assemblée

(2) Dans les 10 jours de la tenue de l'assemblée, le liquidateur dépose auprès du directeur un avis rédigé selon le formulaire approuvé l'informant de la tenue et de la date de cette assemblée.

Dépôt d'une copie de l'ordonnance

(6) L'auteur de la requête à l'origine de l'ordonnance rendue en vertu du paragraphe (4) ou (5) dépose auprès du directeur, dans les 10 jours après que celle-ci a été rendue, une copie certifiée conforme de l'ordonnance, une copie notariée de la copie certifiée conforme ou tout autre type de copie de l'ordonnance autorisée par le directeur.

28 Le paragraphe 210 (4) de la Loi est abrogé et remplacé par ce qui suit :

Avis de nomination

(4) Le liquidateur nommé par le tribunal en vertu du présent article donne sans délai au directeur un avis de sa nomination rédigé selon le formulaire approuvé.

29 Le paragraphe 218 (2) de la Loi est abrogé et remplacé par ce qui suit :

Dépôt d'une copie de l'ordonnance de dissolution

(2) L'auteur de la requête à l'origine de l'ordonnance dépose auprès du directeur, dans les 10 jours après que celle-ci a été rendue, une copie certifiée conforme de l'ordonnance, une copie notariée de la copie certifiée conforme ou tout autre type de copie de l'ordonnance autorisée par le directeur.

30 (1) Le paragraphe 238 (1) de la Loi est modifié par remplacement de «sont rédigés selon la formule prescrite et indiquent» par «doivent indiquer» dans le passage qui précède l'alinéa a).

(2) Le paragraphe 238 (2) de la Loi est modifié par remplacement de «sont rédigés selon la formule prescrite et indiquent» par «doivent indiquer» dans le passage qui précède l'alinéa a).

31 (1) Le paragraphe 239 (1) de la Loi est abrogé et remplacé par ce qui suit :

Certificat de dissolution

(1) À la réception des statuts de dissolution et des autres documents et renseignements exigés, le directeur produit à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat de dissolution.

(2) Le paragraphe 239 (2) de la Loi est modifié par remplacement de «Malgré l'alinéa 273 (1) a)» par «Malgré le paragraphe 273 (1)» au début du paragraphe.

32 La version française du paragraphe 240 (1) de la Loi est modifiée par remplacement de «ou de tout autre certificat délivre ou appose» par «ou de tout autre certificat délivré ou produit» dans le passage qui précède l'alinéa a).

33 (1) Le paragraphe 241 (1) de la Loi est modifié par remplacement du passage qui précède la disposition 0.1 par ce qui suit :

Avis de dissolution par ordre

(1) Si le ministre des Finances l'avise qu'une société ne se conforme pas à l'une ou l'autre des lois suivantes, le directeur peut, au moyen d'un avis donné à la société conformément à l'article 263 ou publié conformément aux règlements, aviser la société qu'il sera donné un ordre de dissolution de la société si elle ne remédie pas à la situation dans les 90 jours de cet avis :

(2) Les paragraphes 241 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Idem

(2) Si la Commission avise le directeur qu'une société a omis de se conformer aux articles 77 et 78 de la *Loi sur les valeurs mobilières*, le directeur peut, au moyen d'un avis donné à la société conformément à l'article 263 ou publié conformément aux règlements, aviser la société qu'il sera donné un ordre de dissolution de la société si elle ne se conforme pas aux articles 77 et 78 de la *Loi sur les valeurs mobilières* dans les 90 jours de cet avis.

Idem : non-conformité

(3) Si une société ne se conforme pas à une obligation de dépôt prévue par la *Loi sur les renseignements exigés des personnes morales* ou qu'elle n'acquiesce pas des droits exigés en application de la présente loi, le directeur peut, au moyen d'un avis donné à la société conformément à l'article 263 ou publié conformément aux règlements, aviser la société qu'il sera donné un ordre de dissolution de la société si elle ne se conforme pas à l'obligation ou n'acquiesce pas les droits dans les 90 jours de cet avis.

(3) L'article 241 de la Loi est modifié par adjonction des paragraphes suivants :

Idem

(5.1) Le directeur peut donner un ordre révoquant l'ordre de dissolution donné en vertu du paragraphe (4) si, selon le cas :

- a) il n'existait aucun pouvoir de donner l'ordre de dissolution;
- b) une erreur a été commise à l'égard de l'ordre de dissolution;
- c) les circonstances prescrites existent.

Effet de l'ordre donné en vertu du par. (5.1)

(7.1) Si un ordre est donné en vertu du paragraphe (5.1) :

- a) il prend effet à la date de l'ordre de dissolution;
- b) la société est réputée à toutes fins ne jamais avoir été dissoute, sous réserve des droits acquis, le cas échéant, par toute personne durant la période de dissolution.

Définition

(9.1) La définition qui suit s'applique au paragraphe (9).

«intéressé» S'entend notamment d'un administrateur, d'un dirigeant et d'un actionnaire de la société.

(4) Le paragraphe 241 (13) de la Loi est modifié par suppression de «rédigés selon le formulaire prescrit» à la fin du paragraphe.

(5) Le paragraphe 241 (14) de la Loi est abrogé et remplacé par ce qui suit :

Certificat de reconstitution

(14) Sous réserve du paragraphe (9), à la réception des statuts de reconstitution et des autres documents et renseignements exigés, le directeur produit à l'égard des statuts, conformément à l'article 273, un certificat qui constitue le certificat de reconstitution.

34 (1) Le paragraphe 251 (1) de la Loi est modifié par remplacement de «Si le directeur refuse d'apposer un certificat sur les statuts, ou tout autre document sur lequel la présente loi exige qu'il appose un certificat pour le valider.» par «Si le directeur refuse de produire un certificat à l'égard des statuts, ou de tout autre document pour lequel la présente loi exige qu'il en produise un pour y donner effet.» au début du paragraphe.

(2) Le paragraphe 251 (2) de la Loi est modifié par remplacement de «le directeur n'y a pas apposé un certificat, il est réputé, pour l'application de l'article 252, avoir refusé de l'apposer» par «le directeur n'a pas produit un certificat à leur égard, il est réputé, pour l'application de l'article 252, avoir refusé de le produire» à la fin du paragraphe.

35 (1) L'alinéa 252 (1) a) de la Loi est abrogé et remplacé par ce qui suit :

- a) de refuser de produire un certificat à l'égard des statuts ou de tout autre document;

(2) La version française de l'alinéa 252 (1) e) de la Loi est abrogée et remplacée par ce qui suit :

e) de refuser de produire une autorisation en vertu de l'article 181;

36 Les paragraphes 263 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Exception

(2) Les avis ou autres documents dont la présente loi ou les règlements exigent ou autorisent l'envoi par le directeur peuvent être envoyés par courrier ordinaire ou autrement, notamment par courrier recommandé ou certifié ou par messenger port payé, à l'adresse visée au présent article ou à l'article 262, si leur envoi est consigné.

Idem

(3) Les avis ou autres documents visés au paragraphe (2) peuvent être envoyés par un moyen de communication téléphonique ou électronique si leur envoi est consigné. Il est entendu que l'envoi d'un avis ou d'un autre document par un moyen de communication téléphonique ou électronique n'exige pas le consentement du destinataire prévu.

37 L'article 265 de la Loi est abrogé et remplacé par ce qui suit :

Délégation des fonctions et pouvoirs du directeur

265 Le directeur peut, par écrit, déléguer à quiconque la totalité ou une partie des fonctions et pouvoirs que lui attribue la présente loi, sous réserve des restrictions énoncées dans l'acte de délégation.

Accords avec des personnes autorisées

265.1 (1) La définition qui suit s'applique au présent article.

«services de dépôt pour les entreprises» S'entend notamment des fonctions et pouvoirs du directeur et des services connexes.

Accords pour la fourniture de services de dépôt pour les entreprises

(2) Le ministre ou une personne qu'il désigne peut, au nom de la Couronne du chef de l'Ontario, conclure un ou plusieurs accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du directeur ou d'un autre représentant du gouvernement.

Pas un mandataire de la Couronne

(3) Sauf disposition contraire d'un règlement, la personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises n'est à aucune fin un mandataire de la Couronne, malgré la *Loi sur les organismes de la Couronne*.

Utilisation des dossiers et renseignements

(4) L'accord conclu en vertu du paragraphe (2) peut aussi comprendre des dispositions concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Aucune incidence de l'accord sur le pouvoir discrétionnaire de déléguer

(5) L'accord conclu en vertu du paragraphe (2) n'a pas d'incidence sur le pouvoir qu'a le directeur de déléguer des fonctions ou pouvoirs en vertu de l'article 265.

Aucun pouvoir de renoncer aux droits relatifs aux services ou de les rembourser

(6) La personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises ne peut pas renoncer au paiement des droits pour un tel service qui sont payables à la province de l'Ontario, ni les rembourser, que ce soit en totalité ou en partie. Elle peut toutefois payer tout ou partie des droits pour le compte de la personne ou de l'entité à qui le service a été fourni.

Date présumée de réception par le directeur

(7) Les statuts, les demandes et les autres documents et renseignements envoyés à une personne ou à une entité qui a conclu un accord en vertu du paragraphe (2) l'autorisant à les recevoir au nom du directeur sont réputés avoir été reçus par le directeur à la date à laquelle la personne ou l'entité autorisée les a reçus.

Accords visant l'utilisation des dossiers et renseignements

(8) Le ministre, le directeur ou une personne désignée par l'un ou l'autre peut conclure avec toute personne ou entité un accord concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Propriété de la Couronne

265.2 Les dossiers et renseignements tenus par le directeur et déposés auprès de lui en application de la présente loi appartiennent à la Couronne.

Certificat du directeur

265.3 (1) Si la présente loi oblige ou autorise le directeur à produire ou à délivrer un certificat, y compris une attestation de faits, le certificat doit porter la signature du directeur ou d'un fonctionnaire employé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* et désigné par les règlements.

Preuve

(2) Le certificat visé au paragraphe (1), ou une copie certifiée conforme du certificat, constitue la preuve, en l'absence de preuve contraire, des faits qui y sont attestés dans toute enquête ou dans toute action ou instance civile, pénale, administrative ou autre, sans que la comparution personnelle soit nécessaire pour prouver l'authenticité de la signature ou la qualité officielle du présumé signataire du certificat ou de la copie certifiée conforme.

Reproduction de la signature

(3) Pour l'application du présent article, la signature du directeur ou d'une personne désignée par les règlements peut être reproduite mécaniquement, notamment sous forme imprimée ou électronique.

38 L'article 267 de la Loi est abrogé et remplacé par ce qui suit :**Copie d'avis ou d'autre document acceptée**

267 (1) Lorsque la présente loi exige l'envoi au directeur d'un avis ou d'un autre document, le directeur peut en accepter une copie, y compris une copie électronique.

Exception

(2) Sauf disposition contraire des règlements, le paragraphe (1) ne s'applique pas aux statuts ou aux demandes déposés sous forme imprimée.

39 (1) Le paragraphe 270 (1) de la Loi est abrogé et remplacé par ce qui suit :**Consultation de documents**

(1) Sur paiement des droits exigés, toute personne a le droit, pendant les heures normales de bureau, de consulter les documents que la présente loi ou les règlements exigent d'envoyer à la Commission et d'en faire des copies ou d'en prendre des extraits.

Recherche

(1.1) Sur paiement des droits exigés, toute personne a le droit, par un moyen de recherche approuvé par le directeur, de rechercher tout document que la présente loi, les règlements ou le directeur exigent d'envoyer à ce dernier et d'en obtenir des copies.

(2) Le paragraphe 270 (3) de la Loi est abrogé et remplacé par ce qui suit :**Documents privilégiés**

(3) Les paragraphes (1), (1.1) et (2) ne s'appliquent pas à l'égard :

- a) des rapports visés au paragraphe 162 (2) et dont une ordonnance du tribunal interdit la publication;
- b) des documents et des états financiers dont la présente loi ou les règlements exigeaient le dépôt auprès du directeur avec la demande de dispense des exigences prévues à la partie XII de la présente loi.

40 (1) Les articles 271.1 et 271.2 de la Loi sont abrogés et remplacés par ce qui suit :**Règlements et arrêtés du ministre****Règlements**

271.1 (1) Le ministre peut, par règlement :

- a) traiter de la teneur, de la forme et du dépôt des statuts, des demandes et des autres documents et renseignements déposés auprès du directeur ou délivrés par ce dernier, ainsi que de la forme et du paiement des droits, et régir ces aspects;
- b) traiter de la façon de rédiger, de présenter et d'accepter les statuts, les demandes et les autres documents et renseignements déposés auprès du directeur, du paiement des droits et de l'établissement de la date de réception, et régir ces aspects;
- c) désigner les statuts, les demandes et les autres documents et renseignements qui doivent être déposés auprès du directeur :
 - (i) sous forme imprimée ou électronique,
 - (ii) sous forme électronique seulement,
 - (iii) sous forme imprimée seulement;

- d) traiter des dénominations sociales des sociétés, ou des dénominations sociales des catégories de sociétés, notamment interdire l'emploi de certains mots ou expressions dans une dénomination sociale, prescrire des exigences pour l'application de l'alinéa 9 (1) c), prescrire des conditions pour l'application du paragraphe 9 (2), prescrire les documents relatifs à la dénomination sociale d'une société qui doivent être déposés auprès du directeur aux termes du paragraphe 9 (3), traiter de la dénomination sociale d'une société aux termes du paragraphe 10 (2), prescrire les signes de ponctuation et autres signes qui peuvent faire partie de la dénomination sociale d'une société aux termes du paragraphe 10 (3) et traiter de la teneur d'une disposition spéciale relative à l'emploi d'une langue aux termes du paragraphe 10 (4);
- e) sous réserve des conditions précisées dans le règlement, prescrire et régir les documents et les renseignements qui doivent accompagner les statuts, les demandes et les autres formulaires approuvés mentionnés à l'article 272.2 et préciser, pour chacune des formes désignées visées à l'alinéa c) :
 - (i) les documents et les renseignements qui doivent être déposés auprès du directeur avec les statuts, les demandes et les autres formulaires approuvés mentionnés à l'article 272.2;
 - (ii) les documents et les renseignements qui doivent être conservés par la société et qui, à la réception de l'avis écrit du directeur et conformément à cet avis, et sous réserve des conditions qu'il impose, doivent être déposés auprès de lui ou remis à l'autre personne qui y est précisée;
- f) permettre au directeur, sous réserve des conditions qu'il impose, de faire ce qui suit pour chacune des formes désignées visées à l'alinéa c) :
 - (i) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa e) (i) soient conservés par la société et, à la réception de l'avis écrit du directeur et conformément à cet avis, soient déposés auprès de lui ou remis à l'autre personne qui y est précisée;
 - (ii) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa e) (ii) soient déposés auprès du directeur avec les statuts, les demandes et les autres formulaires approuvés mentionnés à l'article 272.2;
 - (iii) exiger que les documents dont la présente loi exige le dépôt auprès du directeur soient conservés par la société et, à la réception de l'avis écrit du directeur et conformément à cet avis, soient déposés auprès de lui ou remis à l'autre personne qui y est précisée;
- g) régir les conditions que le directeur peut imposer conformément à un règlement pris en vertu du sous-alinéa e) (ii) ou de l'alinéa f);
- h) traiter de la production d'un certificat ou d'une autorisation à l'égard des statuts et des demandes et de la délivrance de certificats et d'autorisations par le directeur, y compris des règles relatives à la production et à la délivrance par des moyens électroniques, et régir ces aspects;
- i) régir l'attribution de numéros de société et de dénominations sociales numériques en application de l'article 8;
- j) régir la conservation et la destruction des statuts, des demandes et des autres documents et renseignements déposés auprès du directeur, notamment la forme sous laquelle ils doivent être conservés;
- k) prescrire des exceptions pour l'application de l'article 177:
 - 1) prescrire des circonstances pour l'application de l'alinéa 241 (5.1) c);
- m) prescrire des documents pour l'application du paragraphe 273.4 (2);
- n) régir la publication des avis aux sociétés pour l'application des paragraphes 241 (1), (2) et (3);
- o) prescrire les fonctions et pouvoirs du directeur, outre ceux énoncés dans la présente loi;
- p) prévoir qu'une personne ou une entité qui conclut un accord en vertu du paragraphe 265.1 (2) est un mandataire de la Couronne et préciser les services et les fins à l'égard desquels la personne ou l'entité est considérée comme un mandataire de la Couronne;
- q) désigner les fonctionnaires ou les catégories de fonctionnaires employés aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* chargés de produire et de délivrer des certificats, y compris des attestations de faits, et de certifier conformes des copies de documents exigés ou autorisés par la présente loi;
- r) définir des mots ou expressions employés mais non expressément définis dans la présente loi;
- s) prescrire toute question que le ministre estime nécessaire ou souhaitable pour l'application de la présente loi;
- t) prévoir les questions transitoires que le ministre estime nécessaires ou souhaitables relativement à la mise en application des modifications à la présente loi édictées par l'annexe 6 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*.

Incorporation continue par renvoi

(2) Un règlement pris en vertu du paragraphe (1) qui incorpore un autre document par renvoi peut prévoir que le renvoi au document vise également les modifications qui y sont apportées après la prise du règlement.

Droits

(3) Le ministre peut, par arrêté, exiger le paiement de droits pour les rapports de recherche, les copies de documents ou de renseignements, le dépôt de documents ou les autres services prévus par la présente loi, en approuver le montant et prévoir la renonciation à ces droits ou leur remboursement, en totalité ou en partie.

Non-application de la Loi de 2006 sur la législation

(4) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas à un arrêté pris par le ministre en vertu du paragraphe (3).

Exigences établies par le directeur

271.2 (1) Le directeur peut établir des exigences qui :

- a) traitent de la teneur, de la forme et du dépôt des statuts, des demandes et des autres documents et renseignements déposés auprès du directeur ou délivrés par ce dernier, ainsi que de la forme et du paiement des droits, et régissent ces aspects;
- b) traitent de la façon de rédiger, de présenter et d'accepter les statuts, les demandes et les autres documents et renseignements déposés auprès du directeur, du paiement des droits et de l'établissement de la date de réception, et régissent ces aspects;
- c) précisent que les statuts, les demandes et les autres documents et renseignements ne peuvent être déposés auprès du directeur, et les droits acquittés, que par une personne autorisée par le directeur ou appartenant à une catégorie de personnes autorisées par le directeur;
- d) régissent l'autorisation des personnes visées à l'alinéa c), notamment :
 - (i) en fixant les conditions et exigences auxquelles il faut satisfaire pour devenir une personne autorisée,
 - (ii) en assortissant l'autorisation de conditions, notamment de conditions régissant le dépôt des statuts, des demandes et des autres documents et renseignements ainsi que le paiement des droits,
 - (iii) en exigeant de toute personne qui demande une autorisation qu'elle conclue avec le directeur ou avec la personne qu'il désigne un accord régissant le dépôt des statuts, des demandes et des autres documents et renseignements;
- e) précisent si les statuts, les demandes, les autres formulaires approuvés mentionnés à l'article 272.2 et les documents à l'appui doivent être signés et, si oui, lesquels doivent l'être, précisent des exigences ayant trait à leur signature et régissent la forme des signatures, notamment en établissant des règles à l'égard des signatures électroniques;
- f) précisent et régissent les façons de passer les statuts, les demandes, les autres formulaires approuvés mentionnés à l'article 272.2, les documents à l'appui et les déclarations autrement qu'en les signant, et établissent des règles à cet égard;
- g) si la présente loi précise les exigences applicables à la signature des statuts, des demandes et des autres documents déposés auprès du directeur, précisent et régissent des exigences de rechange pour leur signature ou dispensent de toute exigence de signature;
- h) précisent les exigences selon lesquelles les sociétés qui déposent électroniquement des statuts, des demandes et d'autres formulaires approuvés mentionnés à l'article 272.2 doivent conserver à leur siège social une version sous forme imprimée ou électronique de ceux-ci, passés en bonne et due forme et, si un avis du directeur l'exige, fournir à ce dernier une copie de la version passée dans le délai indiqué dans l'avis;
- i) établissent les délais et les circonstances dans lesquels les statuts, les demandes et les autres documents et renseignements sont considérés comme ayant été envoyés au directeur ou reçus par ce dernier, ainsi que le lieu où ils sont considérés comme l'ayant été;
- j) établissent les normes et les exigences technologiques applicables au dépôt auprès du directeur des statuts, des demandes et des autres documents et renseignements sous forme électronique et au paiement des droits sous forme électronique;
- k) précisent le type de copie d'une ordonnance du tribunal ou d'un autre document délivré par le tribunal qui peut être déposée auprès du directeur;
- l) traitent de la production d'un certificat ou d'une autorisation à l'égard des statuts et des demandes et de la délivrance de certificats et d'autorisations par le directeur, y compris des règles relatives à la production et à la délivrance par des moyens électroniques, et régissent ces aspects;
- m) régissent l'attribution de numéros de société et de dénominations sociales numériques en application de l'article 8;

ne régissent les recherches et les moyens de recherche dans les dossiers pour l'application du paragraphe 270 (1.1).

Catégories

(2) Pour l'application de l'alinéa (1) c), une catégorie peut être définie :

a) soit en fonction d'un attribut ou d'une combinaison d'attributs;

b) soit de façon à être constituée d'un membre donné ou à comprendre ou exclure un tel membre.

Non-application de la Loi de 2006 sur la législation

(3) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

Incompatibilité

(4) En cas d'incompatibilité, les règlements pris en vertu de la présente loi l'emportent sur les exigences établies en vertu du présent article.

(2) L'alinéa 271.1 (1) t) de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

41 (1) La disposition 1 de l'article 272 de la Loi est abrogée et remplacée par ce qui suit :

1. traiter de la désignation, des droits, des privilèges, des restrictions ou des conditions rattachées aux actions ou aux catégories d'actions, ainsi que de toute question relative aux statuts ou à leur dépôt;

(2) Les dispositions 8, 9, 10, 11, 12, 13 et 29.4 de l'article 272 de la Loi sont abrogées.

(3) L'article 272 de la Loi est modifié par adjonction des dispositions suivantes :

15.4.1 prescrire une période différente pour l'application du sous-alinéa 99 (5) d) (ii);

15.4.2 prescrire un nombre de jours différent pour l'application des alinéas 99 (5.1) a) et b);

15.4.3 prescrire un pourcentage différent pour l'application de la disposition 1 du paragraphe 99 (5.4), un pourcentage différent pour l'application de la disposition 2 du paragraphe 99 (5.4) et un pourcentage différent pour l'application de la disposition 3 du paragraphe 99 (5.4);

42 La Loi est modifiée par adjonction de l'article suivant :

Formulaires

272.2 (1) Le directeur peut exiger que les formulaires qu'il approuve soient utilisés à toute fin prévue par la présente loi.

Non-application de la Loi de 2006 sur la législation

(2) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

43 Les articles 273, 273.1 et 273.2 de la Loi sont abrogés et remplacés par ce qui suit :

Production d'inscriptions à l'égard des statuts

273 (1) Sauf disposition contraire de la présente loi, des règlements ou des exigences du directeur, lorsque la présente loi exige que les statuts soient envoyés au directeur :

a) si les statuts sont envoyés au directeur sous forme imprimée :

(i) un exemplaire des statuts originaux doit être envoyé selon le formulaire approuvé;

(ii) l'exemplaire des statuts originaux visé au sous-alinéa (i) doit être signé par un administrateur ou un dirigeant de la société ou, s'il s'agit de statuts constitutifs, par tous les fondateurs;

b) si les statuts sont envoyés au directeur sous forme électronique :

(i) les statuts doivent être envoyés sous une forme prescrite par le ministre ou exigée par le directeur;

(ii) les statuts visés au sous-alinéa (i) doivent satisfaire aux exigences en matière de signature ou d'autorisation établies par le directeur en vertu du paragraphe 271.2 (1).

Fonctions du directeur

(2) À la réception des statuts rédigés conformément à l'alinéa (1) a) ou b), des autres documents et renseignements exigés ainsi que des droits exigés, le directeur, sauf disposition contraire de la présente loi, des règlements ou des exigences du directeur et sous réserve du pouvoir discrétionnaire qui lui est accordé aux termes des paragraphes 180 (4) et 241 (9) et du paragraphe (3) du présent article :

a) produit un certificat à l'égard des statuts indiquant le jour, le mois et l'année de la production, ainsi que le numéro de la société.

- b) dépose les statuts à l'égard desquels le certificat a été produit dans les dossiers tenus en vertu de l'article 276;
- c) envoie ou fournit autrement à la société ou à son représentant une copie des statuts à l'égard desquels le certificat a été produit.

Date du certificat

(3) La date du certificat visé au paragraphe (2), à l'exception d'un certificat d'arrangement, doit être :

- a) soit celle du jour où le directeur reçoit les statuts rédigés conformément à l'alinéa (1) a) ou b) et accompagnés de tous les autres documents exigés, passés conformément à la présente loi, aux règlements et aux exigences du directeur, de tous les autres renseignements exigés et des droits exigés;
- b) soit une date ultérieure que le directeur juge acceptable et qui est précisée par la personne ayant présenté les statuts ou par le tribunal.

Date d'effet des statuts

(4) Les statuts à l'égard desquels un certificat a été produit en application du présent article prennent effet à la date qui est indiquée dans le certificat, même si les mesures que doit prendre le directeur en application de la présente loi relativement à la production et au dépôt ou à l'enregistrement du certificat sont prises à une date ultérieure.

Méthodes de production et de délivrance

273.1 Le directeur peut produire des certificats ou des autorisations à l'égard des statuts et des demandes et délivrer des certificats, des autorisations, des copies certifiées conformes et d'autres documents par tout moyen et peut utiliser ou délivrer des codes de validation ou d'autres systèmes ou méthodes de validation à l'égard de la production et de la délivrance.

Refus de production en cas de non-conformité de la société

273.2 Malgré toute disposition de la présente loi exigeant la production d'un certificat ou d'une autorisation par le directeur, ce dernier peut refuser de le faire si la société a omis de se conformer à une obligation de dépôt prévue par la *Loi sur les renseignements exigés des personnes morales* ou à une obligation d'enregistrement prévue par la *Loi sur les noms commerciaux* ou qu'elle n'a pas acquitté des droits ou des peines prévus par la présente loi, la *Loi sur les renseignements exigés des personnes morales* ou la *Loi sur les noms commerciaux*.

Dépôt par télécopie

273.3 Malgré tout règlement pris en vertu de l'article 271.1, les statuts, les demandes et les autres documents ne peuvent être déposés par télécopie qu'avec le consentement du directeur.

Primauté de la version électronique

273.4 (1) Si des statuts ou une demande sont déposés auprès du directeur sous forme électronique, en cas d'incompatibilité, la version électronique des statuts à l'égard desquels a été produit un certificat en application de la présente loi et qui est enregistrée dans un système électronique tenu en vertu de l'article 276, ou la version électronique de la demande à l'égard de laquelle une autorisation a été produite en vertu de l'article 181, 181.1 ou 181.2 et qui est enregistrée dans un système électronique tenu en vertu de l'article 276, ou l'imprimé de la version électronique applicable, l'emporte sur toute autre version existante des statuts ou de la demande, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du directeur.

Idem : documents prescrits

(2) Si un document prescrit est déposé sous forme électronique, en cas d'incompatibilité, la version électronique du document enregistrée dans un système électronique tenu en vertu de l'article 276, ou l'imprimé de la version électronique, l'emporte sur toute autre version existante du document, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du directeur.

Impossibilité de recevoir des dépôts dans le système électronique

273.5 (1) Malgré tout règlement pris en vertu de l'alinéa 271.1 (1) c), s'il est d'avis que, pour une raison quelconque, il est impossible de recevoir des statuts, des demandes et d'autres documents et renseignements sous forme électronique dans un système électronique tenu en application de l'article 276, le directeur peut exiger qu'ils soient déposés sous forme imprimée seulement, conformément aux exigences éventuelles du directeur, ou sous une autre forme électronique qu'il approuve.

Idem — Conservation des dépôts et des demandes jusqu'à ce que le système soit en service

(2) S'il est d'avis que, pour une raison quelconque, il est impossible de produire des inscriptions à l'égard des statuts ou des demandes ou de délivrer d'autres documents au moyen d'un système électronique tenu en application de l'article 276, le directeur peut conserver les statuts, demandes et autres documents qui ont été déposés jusqu'à ce qu'il puisse les délivrer ou produire une inscription à leur égard conformément à la présente loi, aux règlements et aux exigences éventuelles du directeur.

Idem — Recherches

(3) S'il est d'avis que, pour une raison quelconque, il est impossible d'effectuer des recherches dans un système électronique tenu en application de l'article 276, le directeur peut conserver les demandes de recherches qui ont été déposées jusqu'à ce que les recherches puissent être effectuées.

44 L'article 275 de la Loi est abrogé et remplacé par ce qui suit :**Erreur dans le certificat**

275 (1) En cas d'erreur dans tout certificat ou autre document délivré ou produit en vertu de la présente loi ou d'une loi qu'elle remplace, ou dans des statuts ou autres documents à l'égard desquels un certificat ou un autre document a été produit ou délivré :

- a) soit la société, ses administrateurs ou ses actionnaires peuvent demander au directeur un certificat ou un autre document rectifié et, à la demande du directeur et dans le délai qu'il précise, ils doivent lui remettre le certificat ou l'autre document ainsi que les statuts ou les autres documents auxquels il se rapporte;
- b) soit le directeur peut aviser la société qu'un certificat rectifié pourrait être exigé et la société, à la demande du directeur et dans le délai qu'il précise, doit lui remettre le certificat ainsi que les statuts ou les documents auxquels il se rapporte.

Certificat rectifié

(2) Après avoir donné à la société l'occasion d'être entendue à l'égard d'une erreur visée au paragraphe (1), le directeur produit un certificat ou un autre document rectifié s'il l'estime indiqué et qu'il est convaincu que la société a pris les mesures qu'il a exigées.

Date du certificat

(3) Le certificat ou l'autre document rectifié produit aux termes du paragraphe (2) peut porter la date de celui qu'il remplace.

Idem

(4) Si une rectification a été faite à l'égard de la date du certificat, le certificat rectifié produit en application du paragraphe (2) doit porter la date rectifiée.

Appel

(5) Les décisions prises par le directeur en application du paragraphe (2) sont susceptibles d'appel devant la Cour divisionnaire. Celle-ci peut ordonner au directeur de modifier sa décision et rendre toute autre ordonnance qu'elle estime indiquée.

45 L'article 276 de la Loi est modifié par adjonction du paragraphe suivant :**Documents mis à la disposition du public**

(4) Le directeur peut mettre ce qui suit à la disposition du public, notamment en les publiant :

- a) les avis ou les autres documents envoyés par le directeur en application de la présente loi;
- b) les documents dont la présente loi, les règlements ou le directeur exigent l'envoi au directeur en application de la présente loi, sauf les documents visés au paragraphe 270 (3).

46 L'article 278 de la Loi est abrogé et remplacé par ce qui suit :**Nomination du directeur**

278 Le ministre nomme un directeur chargé d'exercer les pouvoirs et les fonctions que la présente loi ou toute autre loi attribue au directeur.

LOI SUR LES NOMS COMMERCIAUX**47 (1) La Loi sur les noms commerciaux est modifiée par adjonction de l'intertitre suivant avant l'article 1 :****INTERPRÉTATION****(2) L'article 1 de la Loi est modifié par adjonction des définitions suivantes :**

«jour» Jour franc. («day»)

«signature électronique» Marquage ou procédé d'identification qui a les caractéristiques suivantes :

- a) il est créé ou communiqué par un moyen de communication téléphonique ou électronique;
- b) il est joint ou associé à un document ou à d'autres renseignements;
- c) il est apporté ou adopté par la personne qui veut s'associer au document ou aux autres renseignements, selon le cas («electronic signature»)

(3) La définition de «ministre» à l'article 1 de la Loi est abrogée et remplacée par ce qui suit :

«ministre» Le membre du Conseil exécutif à qui la responsabilité de l'application de la présente loi est assignée ou transférée en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

(4) La définition de «registrateur» à l'article 1 de la Loi est modifiée par remplacement de «aux termes de l'article 3» par «en application de l'article 1.1» à la fin de la définition.

(5) L'article 1 de la Loi est modifié par adjonction de la définition suivante :

«moyen de communication téléphonique ou électronique» Tout moyen de communication qui fait appel au téléphone ou à tout autre moyen électronique ou technologique pour transmettre des renseignements ou des données — appel ou message téléphonique, télécopie, courrier électronique, système automatisé de téléphone à clavier, ordinateur ou réseau informatique. («telephonic or electronic means»)

(6) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Interprétation : période de jours

(2) Pour l'application de la présente loi, une période de jours est réputée commencer le jour qui suit l'événement qui marque le début de la période et prendre fin à minuit le dernier jour de cette période. Toutefois, si le dernier jour de la période tombe un jour férié, la période prend fin à minuit le prochain jour qui n'est pas un jour férié.

48 La Loi est modifiée par adjonction des articles suivants :

APPLICATION

Registrateur

1.1 (1) Le ministre nomme un registrateur chargé d'exercer les fonctions et pouvoirs que la présente loi et la *Loi sur les sociétés en commandite* attribuent au registrateur.

Délégation de fonctions et pouvoirs

(2) Le registrateur peut déléguer par écrit à quiconque la totalité ou une partie des fonctions et pouvoirs que lui attribue la présente loi ou la *Loi sur les sociétés en commandite*, sous réserve des restrictions énoncées dans l'acte de délégation.

Dossiers

(3) Le registrateur constitue un dossier de chaque enregistrement effectué en vertu de la présente loi et de chaque déclaration déposée en application de la *Loi sur les sociétés en commandite*.

Dossiers mis à la disposition du public

(4) Toute personne a le droit, par un moyen de recherche approuvé par le registrateur, de chercher les dossiers tenus par le registrateur en application de la présente loi ou de la *Loi sur les sociétés en commandite* et d'en obtenir des copies.

Numéro de personne morale

(5) Le registrateur peut, s'il l'estime indiqué, attribuer un numéro de personne morale à une personne morale à laquelle il n'a pas déjà été attribué de numéro.

Idem

(6) Si, par mégarde ou autrement, le registrateur a attribué à la personne morale, en vertu du paragraphe (5), un numéro de personne morale déjà attribué à une autre, il peut, sans tenir d'audience, modifier le numéro attribué à la personne morale.

Idem

(7) Si, pour une raison quelconque, le registrateur a attribué plus d'un numéro de personne morale à une personne morale, il peut, sans tenir d'audience, décider quel numéro lui sera attribué.

Accords avec des personnes autorisées

1.2 (1) La définition qui suit s'applique au présent article.

«services de dépôt pour les entreprises» S'entend notamment des fonctions et pouvoirs du registrateur et des services connexes.

Accords pour la fourniture de services de dépôt pour les entreprises

(2) Le ministre ou une personne qu'il désigne peut, au nom de la Couronne du chef de l'Ontario, conclure un ou plusieurs accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du registrateur ou d'un autre représentant du gouvernement.

Pas un mandataire de la Couronne

(3) Sauf disposition contraire d'un règlement, la personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises n'est à aucune fin un mandataire de la Couronne, malgré la *Loi sur les organismes de la Couronne*.

Utilisation des dossiers et renseignements

(4) L'accord conclu en vertu du paragraphe (2) peut aussi comprendre des dispositions concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Aucune incidence de l'accord sur le pouvoir discrétionnaire de déléguer

(5) L'accord conclu en vertu du paragraphe (2) n'a pas d'incidence sur le pouvoir qu'a le registraire de déléguer des fonctions ou pouvoirs en vertu du paragraphe 1.1 (2).

Aucun pouvoir de renoncer aux droits relatifs aux services ou de les rembourser

(6) La personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises ne peut pas renoncer au paiement des droits pour un tel service qui sont payables à la province de l'Ontario, ni les rembourser, que ce soit en totalité ou en partie. Elle peut toutefois payer tout ou partie des droits pour le compte de la personne ou de l'entité à qui le service a été fourni.

Date présumée de réception par le registraire

(7) Les formulaires déposés à l'enregistrement et les autres documents et renseignements envoyés à une personne ou à une entité qui a conclu un accord en vertu du paragraphe (2) l'autorisant à les recevoir au nom du registraire sont réputés avoir été reçus par le registraire à la date à laquelle la personne ou l'entité autorisée les a reçus.

Accords visant l'utilisation des dossiers et renseignements

(8) Le ministre, le registraire ou une personne désignée par l'un ou l'autre peut conclure avec toute personne ou entité un accord concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Propriété de la Couronne

1.3 Les dossiers et renseignements tenus par le registraire et déposés auprès de lui en application de la présente loi et de la *Loi sur les sociétés en commandite* appartiennent à la Couronne.

49 La Loi est modifiée par adjonction de l'intertitre suivant avant l'article 2 :**ENREGISTREMENT**

50 L'article 3 de la Loi est abrogé.

51 (1) Le paragraphe 4 (2) de la Loi est abrogé et remplacé par ce qui suit :

Refus d'accepter d'enregistrer un nom

(2) Le registraire peut refuser d'accepter d'enregistrer un nom qui n'est pas conforme à la présente loi ou aux exigences prescrites.

(2) Le paragraphe 4 (4) de la Loi est modifié par suppression de «selon la formule prescrite et».

(3) L'alinéa 4 (7) a) de la Loi est modifié par insertion de «à la présente loi ou» avant «aux exigences prescrites».

52 La Loi est modifiée par adjonction des articles suivants :

Certaines modifications à l'enregistrement non requises

4.1 (1) Malgré le paragraphe 4 (4), la personne enregistrée ne doit pas présenter de modification à l'enregistrement indiquant que des renseignements concernant une personne morale ont changé si, à la fois :

- a) le changement a déjà été apporté conformément à la présente loi ou à une autre loi;
- b) le registraire a déjà consigné le changement dans les dossiers tenus en application du paragraphe 1.1 (3) et délivré un enregistrement modifié indiquant le changement.

Idem

(2) Malgré le paragraphe 4 (4), la personne enregistrée ne doit pas présenter de modification à l'enregistrement indiquant que des renseignements concernant une personne qui n'est pas une personne morale ont changé si, à la fois :

- a) la personne s'est déjà vu attribuer un numéro d'identité de l'entreprise en application de la présente loi ou de la *Loi sur les sociétés en commandite*;
- b) le changement a déjà été apporté conformément à la présente loi ou à la *Loi sur les sociétés en commandite*.

- c) le registraire a déjà consigné le changement dans les dossiers tenus en application du paragraphe 1.1 (3) et délivré un enregistrement modifié indiquant le changement.

Copie d'avis ou d'autre document acceptée

5.1 Lorsque la présente loi exige l'envoi au registraire d'un avis ou d'un autre document, le registraire peut en accepter une copie, y compris une copie électronique.

53 Les paragraphes 8 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Signature

(2) Le certificat ou la copie certifiée conforme visé au paragraphe (1) doit porter la signature du registraire ou d'un fonctionnaire employé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* et désigné par les règlements.

Preuve

(3) Le certificat ou la copie certifiée conforme visé au paragraphe (1) est admissible en preuve devant tous les tribunaux et fait foi, en l'absence de preuve contraire, du contenu du document ou de l'absence d'enregistrement du nom, selon le cas, sans qu'il faille établir la nonnation du présumé signataire du certificat ou de la copie certifiée conforme ou l'authenticité de sa signature.

Reproduction de la signature

(4) Pour l'application du présent article, la signature du registraire ou d'un fonctionnaire peut être reproduite mécaniquement, notamment sous forme imprimée ou électronique.

54 (1) Le paragraphe 9 (1) de la Loi est modifié par remplacement de «Les dossiers que prépare et tient le registraire» par «Les dossiers que prépare et tient le registraire en application de la présente loi ou de la *Loi sur les sociétés en commandite*» au début du paragraphe.

(2) Les paragraphes 9 (2), (3) et (4) de la Loi sont abrogés et remplacés par ce qui suit :

Admissibilité en preuve

(2) Si le registraire tient des dossiers sous une forme non écrite :

- a) il doit donner les copies exigées par la présente loi sous une forme écrite compréhensible;
- b) les rapports extraits de ces dossiers qui se présentent comme certifiés par le registraire ou par un fonctionnaire visé au paragraphe 8 (2) sont admissibles en preuve sans qu'il soit nécessaire d'établir la qualité officielle du présumé signataire du certificat ou de la copie certifiée conforme ou l'authenticité de sa signature.

Copies

(3) Le registraire n'est pas tenu de produire l'original d'un document dont une copie est donnée conformément à l'alinéa (2) a).

55 (1) La Loi est modifiée par adjonction de l'intertitre suivant avant l'article 9.1 :

DISPOSITIONS GÉNÉRALES

(2) Le paragraphe 9.1 (2) de la Loi est abrogé et remplacé par ce qui suit :

Idem

(2) Les avis ou autres documents visés au paragraphe (1) peuvent être envoyés par un moyen de communication téléphonique ou électronique si leur envoi est consigné. Il est entendu que l'envoi d'un avis ou d'un autre document par un moyen de communication téléphonique ou électronique n'exige pas le consentement du destinataire prévu.

(3) Le paragraphe 9.1 (5) de la Loi est abrogé.

56 La Loi est modifiée par adjonction des articles suivants :

Documents mis à la disposition du public

9.2 Le registraire peut mettre ce qui suit à la disposition du public, notamment en les publiant :

- a) les avis ou les autres documents envoyés par le registraire en application de la présente loi;
- b) les documents dont la présente loi, les règlements ou le registraire exigent l'envoi au registraire en application de la présente loi.

Dépôt par télécopie

9.3 Malgré tout règlement pris en vertu de l'article 10.1, les documents ne peuvent être déposés par télécopie qu'avec le consentement du registrateur.

Primauté de la version électronique

9.4 Si un document est déposé à l'enregistrement sous forme électronique, en cas d'incompatibilité, la version électronique de l'enregistrement enregistrée dans un système électronique tenu en application de l'article 9, ou l'imprimé de la version électronique, l'emporte sur toute autre version existante de l'enregistrement, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du registrateur.

Impossibilité de recevoir des dépôts dans le système électronique

9.5 (1) Malgré tout règlement pris en vertu de l'alinéa 10.1 (1) e), s'il est d'avis que, pour une raison quelconque, il est impossible de recevoir des formulaires déposés à l'enregistrement et d'autres documents et renseignements sous forme électronique dans un système électronique tenu en application de l'article 9, le registrateur peut exiger qu'ils soient déposés sous forme imprimée seulement, conformément aux exigences éventuelles du registrateur, ou sous une autre forme électronique qu'il approuve.

Idem — Conservation des dépôts et des demandes jusqu'à ce que le système soit en service

(2) S'il est d'avis que, pour une raison quelconque, il est impossible de délivrer des enregistrements de noms commerciaux ou de modifier, de renouveler ou de révoquer des enregistrements au moyen d'un système électronique tenu en application de l'article 9, le registrateur peut conserver les formulaires déposés pour enregistrement, modification, renouvellement ou révocation et les autres documents et renseignements qui ont été déposés jusqu'à ce qu'il puisse les délivrer conformément à la présente loi, aux règlements et aux exigences éventuelles du registrateur.

Idem — Recherches

(3) S'il est d'avis que, pour une raison quelconque, il est impossible d'effectuer des recherches dans un système électronique tenu en application de l'article 9, le registrateur peut conserver les demandes de recherches qui ont été déposées jusqu'à ce que les recherches puissent être effectuées.

57 (1) L'article 10.1 de la Loi est abrogé et remplacé par ce qui suit :

Règlements et arrêtés du ministre

Règlements

10.1 (1) Le ministre peut, par règlement :

- a) prescrire ou régir tout ce que la présente loi mentionne comme étant prescrit ou fait par règlement ou conformément aux règlements;
- b) soustraire toute catégorie de personnes ou d'entreprises à l'application de l'article 2 de la présente loi ou d'une disposition des règlements et prescrire les conditions de l'exemption;
- c) traiter de la teneur, de la forme et du dépôt des formulaires déposés à l'enregistrement et des autres documents et renseignements déposés auprès du registrateur ou délivrés par ce dernier, ainsi que de la forme et du paiement des droits, et régir ces aspects;
- d) traiter de la façon de remplir, de présenter et d'accepter les formulaires déposés à l'enregistrement et les autres documents et renseignements déposés auprès du registrateur, du paiement des droits et de l'établissement de la date de réception, et régir ces aspects;
- e) désigner les documents et les renseignements qui doivent être déposés auprès du registrateur :
 - (i) sous forme imprimée ou électronique,
 - (ii) sous forme électronique seulement,
 - (iii) sous forme imprimée seulement;
- f) prescrire et interdire l'emploi de certains termes connotatifs ou suggestifs, de mots ou d'expressions dans le nom qui figure dans l'enregistrement;
- g) prescrire les signes de ponctuation et autres signes qui peuvent faire partie du nom enregistré conformément au paragraphe 4 (3);
- h) sous réserve des conditions précisées dans le règlement, prescrire et régir les documents et les renseignements qui doivent accompagner les formulaires déposés à l'enregistrement et les autres formulaires approuvés mentionnés à l'article 10.2 et préciser, pour chacune des formes désignées visées à l'alinéa e) :
 - (i) les documents et les renseignements qui doivent être déposés auprès du registrateur avec les formulaires déposés à l'enregistrement et les autres formulaires approuvés mentionnés à l'article 10.2,

- (ii) les documents et les renseignements qui doivent être conservés par la personne morale ou une autre personne et qui, à la réception de l'avis écrit du registraire et conformément à cet avis, et sous réserve des conditions qu'il impose, doivent être déposés auprès de lui ou remis à l'autre personne qui y est précisée;
- i) permettre au registraire, sous réserve des conditions qu'il impose, de faire ce qui suit pour chacune des formes désignées visées à l'alinéa e) :
 - (i) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa h) (i) soient conservés par la personne morale ou une autre personne et, à la réception de l'avis écrit du registraire et conformément à cet avis, soient déposés auprès de lui ou remis à l'autre personne qui y est précisée;
 - (ii) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa h) (ii) soient déposés auprès du registraire avec les formulaires déposés à l'enregistrement et les autres formulaires approuvés mentionnés à l'article 10.2;
- j) régir les conditions que le registraire peut imposer conformément à un règlement pris en vertu du sous-alinéa h) (ii) ou de l'alinéa i);
- k) traiter de la délivrance de documents par le registraire, y compris des règles relatives à la délivrance de documents par des moyens électroniques, et régir ces aspects;
- l) régir l'attribution de numéros de personne morale en vertu de l'article 1.1;
- m) régir la conservation et la destruction des enregistrements, des certificats et des autres documents et renseignements déposés auprès du registraire, notamment la forme sous laquelle ils doivent être conservés;
- n) prescrire les fonctions et pouvoirs du registraire dans le cadre de la présente loi, outre ceux qui y sont énoncés;
- o) désigner les fonctionnaires ou les catégories de fonctionnaires employés aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* chargés de délivrer des certificats et des copies certifiées conformes aux termes du paragraphe 8 (2);
- p) prévoir qu'une personne ou une entité qui conclut un accord en vertu du paragraphe 1.2 (2) est un mandataire de la Couronne et préciser les services et les fins à l'égard desquels la personne ou l'entité est considérée comme un mandataire de la Couronne;
- q) définir des mots ou expressions employés mais non expressément définis dans la présente loi;
- r) prescrire toute question que le ministre estime nécessaire ou souhaitable pour l'application de la présente loi;
- s) prévoir les questions transitoires que le ministre estime nécessaires ou souhaitables relativement à la mise en application des modifications à la présente loi édictées par l'annexe 6 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*.

Incorporation continue par renvoi

(2) Un règlement pris en vertu du paragraphe (1) qui incorpore un autre document par renvoi peut prévoir que le renvoi au document vise également les modifications qui y sont apportées après la prise du règlement.

Droits

(3) Le ministre peut, par arrêté, exiger le paiement de droits pour les enregistrements, les renouvellements tardifs, les rapports de recherche, les copies de documents ou de renseignements ou les autres services prévus par la présente loi, en approuver le montant et prévoir la renonciation à ces droits ou leur remboursement, en totalité ou en partie.

Non-application de la *Loi de 2006 sur la législation*

(4) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas à un arrêté pris par le ministre en vertu du paragraphe (3).

(2) L'alinéa 10.1 (1) s) de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

58 L'article 10.2 de la Loi est abrogé et remplacé par ce qui suit :

Formulaires

10.2 (1) Le registraire peut exiger que les formulaires qu'il approuve soient utilisés à toute fin prévue par la présente loi.

Non-application de la *Loi de 2006 sur la législation*

(2) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le registraire en vertu du paragraphe (1).

Méthodes de délivrance

10.3 Le registrateur peut délivrer des certificats, des copies certifiées conformes et d'autres documents par tout moyen et peut utiliser ou délivrer des codes de validation ou d'autres systèmes ou méthodes de validation à l'égard de la délivrance en application de la présente loi ou de la *Loi sur les sociétés en commandite*.

Exigences établies par le registrateur

10.4 (1) Le registrateur peut établir des exigences qui :

- a) traitent de la teneur, de la forme et du dépôt des formulaires déposés à l'enregistrement et des autres documents et renseignements déposés auprès du registrateur ou délivrés par ce dernier, ainsi que de la forme et du paiement des droits, et régissent ces aspects;
- b) traitent de la façon de remplir, de présenter et d'accepter les formulaires déposés à l'enregistrement et les autres documents et renseignements déposés auprès du registrateur, du paiement des droits et de l'établissement de la date de réception, et régissent ces aspects;
- c) précisent que les formulaires déposés à l'enregistrement et les autres documents et renseignements ne peuvent être déposés auprès du registrateur, et les droits acquittés, que par une personne autorisée par le registrateur ou appartenant à une catégorie de personnes autorisées par le registrateur;
- d) régissent l'autorisation des personnes visées à l'alinéa c), notamment :
 - (i) en fixant les conditions et exigences auxquelles il faut satisfaire pour devenir une personne autorisée,
 - (ii) en assortissant l'autorisation de conditions, notamment de conditions régissant le dépôt des formulaires déposés à l'enregistrement et des autres documents et renseignements ainsi que le paiement des droits,
 - (iii) en exigeant de toute personne qui demande une autorisation qu'elle conclue avec le registrateur ou avec la personne qu'il désigne un accord régissant le dépôt des formulaires déposés à l'enregistrement et des autres documents et renseignements;
- e) précisent si les formulaires approuvés mentionnés à l'article 10.2 et les documents à l'appui doivent être signés et, si oui, lesquels doivent l'être, précisent des exigences ayant trait à leur signature et régissent la forme des signatures, notamment en établissant des règles à l'égard des signatures électroniques;
- f) précisent et régissent les façons de passer les formulaires approuvés mentionnés à l'article 10.2 et les documents à l'appui autrement qu'en les signant, et établissent des règles à cet égard;
- g) précisent les exigences selon lesquelles les personnes morales ou les autres personnes qui déposent électroniquement des formulaires approuvés mentionnés à l'article 10.2 doivent conserver une version sous forme imprimée ou électronique de ceux-ci, passés en bonne et due forme et, si un avis du registrateur l'exige, fournir à ce dernier une copie de la version passée dans le délai indiqué dans l'avis;
- h) établissent les délais et les circonstances dans lesquels les formulaires déposés à l'enregistrement et les autres documents et renseignements sont considérés comme ayant été envoyés au registrateur ou reçus par ce dernier, ainsi que le lieu où ils sont considérés comme l'ayant été;
- i) établissent les normes et les exigences technologiques applicables au dépôt auprès du registrateur des formulaires à l'enregistrement et des autres documents et renseignements sous forme électronique et au paiement des droits sous forme électronique;
- j) précisent le type de copie d'une ordonnance du tribunal ou d'un autre document délivré par le tribunal qui peut être déposée auprès du registrateur;
- k) traitent de la délivrance de documents par le registrateur, y compris des règles relatives à la délivrance de documents par des moyens électroniques, et régissent ces aspects;
- l) régissent l'attribution de numéros de personne morale en vertu de l'article 1.1;
- m) régissent les recherches et les moyens de recherche dans les dossiers pour l'application du paragraphe 1.1 (4).

Catégories

(2) Pour l'application de l'alinéa (1) c), une catégorie peut être définie :

- a) soit en fonction d'un attribut ou d'une combinaison d'attributs;
- b) soit de façon à être constituée d'un membre donné ou à comprendre ou exclure un tel membre.

Non-application de la Loi de 2006 sur la législation

(3) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le registrateur en vertu du paragraphe (1).

Incompatibilité

(4) En cas d'incompatibilité, les règlements pris en vertu de la présente loi l'emportent sur les exigences établies en vertu du présent article.

59 L'article 11 de la Loi est abrogé.

60 Les paragraphes 39 (2) et (3) de l'annexe E de la Loi de 1998 visant à réduire les formalités administratives sont abrogés.

LOI DE 1994 PORTANT RÉFORME DE LA RÉGLEMENTATION DES ENTREPRISES

61 L'article 2 de la Loi de 1994 portant réforme de la réglementation des entreprises est modifié par adjonction de la définition suivante :

«ministre chargé de l'identification des entreprises» Le ministre des Services gouvernementaux et des Services aux consommateurs ou le ministre de la Couronne à qui les pouvoirs et les fonctions prévus aux articles 8 à 8.5 sont assignés ou transférés en vertu de la *Loi sur le Conseil exécutif*. («business identification Minister»)

62 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

Désignation de lois

3 Le lieutenant-gouverneur en conseil peut, par règlement, désigner toute loi pour l'application de la présente loi.

63 Les paragraphes 8 (2) à (5) de la Loi sont abrogés et remplacés par ce qui suit :

Accords avec le Canada

(2) Le ministre chargé de l'identification des entreprises peut conclure, avec la Couronne du chef du Canada ou avec son mandataire, des accords prévoyant l'intégration d'un système d'identificateurs d'entreprises établi en vertu de la présente loi à tout système d'identificateurs d'entreprises établi par la Couronne du chef du Canada ou par son mandataire.

Accords avec des autorités locales

(3) Le ministre chargé de l'identification des entreprises peut, avec l'approbation de la Couronne du chef du Canada ou de son mandataire avec qui il a conclu un accord en vertu du paragraphe (2), conclure avec une municipalité, un conseil local ou une autre entité municipale en Ontario des accords prévoyant l'intégration d'un système d'identificateurs d'entreprises établi en vertu de la présente loi à tout système d'identificateurs d'entreprises établi par la municipalité, le conseil local ou l'autre entité municipale.

64 L'article 8.1 de la Loi est abrogé et remplacé par ce qui suit :

Identificateurs d'entreprises et communication de renseignements : ministères et organismes**Accords relatifs aux identificateurs d'entreprises**

8.1 (1) Le ministre chargé de l'identification des entreprises peut conclure, avec un autre ministre de la Couronne du chef de l'Ontario ou avec une agence, un organisme, une commission, un conseil ou une régie créé aux termes d'une loi de l'Ontario, des accords selon lesquels le ministre de l'autre ministre, l'agence, l'organisme, la commission, le conseil ou la régie doit :

- a) attribuer des identificateurs d'entreprises conformément au système d'identificateurs d'entreprises établi en vertu de la présente loi;
- b) utiliser le système d'identificateurs d'entreprises à toute autre fin.

Obtention de renseignements auprès d'une personne visée par une loi

(2) Le ministre chargé de l'application d'une loi à l'égard de laquelle est conclu un accord en vertu du présent article peut exiger qu'une personne visée par cette loi lui fournisse les renseignements commerciaux prescrits et qu'elle mette à jour les renseignements commerciaux qu'elle lui a fournis antérieurement.

Obtention de renseignements auprès d'une entreprise ayant des interactions avec le ministre

(3) Le ministre qui est chargé d'exercer une fonction ministérielle à l'égard de laquelle est conclu en vertu du présent article un accord autre qu'un accord visé au paragraphe (2) et qui reçoit des renseignements d'une entreprise dans l'exercice de cette fonction peut exiger que l'entreprise lui fournisse les renseignements commerciaux prescrits et qu'elle mette à jour les renseignements commerciaux qu'elle lui a fournis antérieurement.

Centralisation des renseignements reçus d'une personne visée par une loi

(4) Le ministre chargé de l'application d'une loi à l'égard de laquelle est conclu un accord en vertu du présent article divulgue au ministre chargé de l'identification des entreprises les renseignements commerciaux qu'il a reçus dans le cadre de cette loi ou qu'il a reçus aux termes du paragraphe (2).

Centralisation des renseignements reçus d'une entreprise ayant des interactions avec le ministre

(5) Le ministre chargé d'exercer une fonction ministérielle à l'égard de laquelle est conclu un accord en vertu du présent article divulgue au ministre chargé de l'identification des entreprises les renseignements commerciaux qu'il a reçus dans l'exercice de cette fonction ou qu'il a reçus aux termes du paragraphe (3).

Communication de renseignements aux autres paliers de gouvernement

(6) Le ministre chargé de l'identification des entreprises peut divulguer les renseignements commerciaux qu'il reçoit aux termes du présent article à la Couronne en chef du Canada ou à son mandataire.

Idem : renseignements déjà reçus

(7) Après qu'un accord a été conclu en vertu du présent article, le paragraphe (6) s'applique aux renseignements commerciaux que le ministre chargé de l'identification des entreprises a reçus avant la conclusion de l'accord comme s'il les avait reçus après celle-ci.

Ministère du ministre chargé de l'identification des entreprises

(8) La directive du ministre chargé de l'identification des entreprises à son propre ministère obligeant ce dernier à faire ce qui est énoncé aux alinéas (1) a) et b) est réputée être un accord conclu en vertu du présent article.

Identificateurs d'entreprises et communication de renseignements : certaines personnes morales**Accords relatifs aux identificateurs d'entreprises**

8.2 (1) Le ministre chargé de l'identification des entreprises peut conclure, avec une personne morale qui applique une loi désignée ou des dispositions d'une loi désignée pour le compte de la Couronne du chef de l'Ontario ou avec une société de la Couronne qui exerce des pouvoirs ou des fonctions en application d'une loi désignée, des accords selon lesquels la personne morale ou la société de la Couronne doit :

- a) attribuer des identificateurs d'entreprises conformément au système d'identificateurs d'entreprises établi en vertu de la présente loi;
- b) utiliser le système d'identificateurs d'entreprises à toute autre fin.

Centralisation des renseignements

(2) Si un accord est conclu en vertu du présent article avec une personne morale, le ministre chargé de l'identification des entreprises peut :

- a) exiger que la personne morale lui fournisse les renseignements commerciaux prescrits;
- b) recevoir des renseignements commerciaux de la personne morale.

Communication des renseignements aux autres paliers de gouvernement

(3) Le ministre chargé de l'identification des entreprises peut communiquer les renseignements commerciaux qu'il reçoit aux termes du présent article :

- a) à une municipalité, à un conseil local ou à une autre entité municipale;
- b) à la Couronne du chef du Canada ou à son mandataire.

Idem : renseignements déjà reçus

(4) Après qu'un accord a été conclu en vertu du présent article, le paragraphe (3) s'applique aux renseignements commerciaux que le ministre chargé de l'identification des entreprises a reçus avant la conclusion de l'accord comme s'il les avait reçus après celle-ci.

Identificateurs d'entreprises et communication de renseignements : autorités locales**Accords relatifs aux identificateurs d'entreprises**

8.3 (1) Le ministre chargé de l'identification des entreprises peut conclure avec une municipalité, un conseil local ou une autre entité municipale des accords selon lesquels la municipalité, le conseil local ou l'autre entité municipale doit :

- a) attribuer des identificateurs d'entreprises conformément au système d'identificateurs d'entreprises établi en vertu du présent article;
- b) utiliser le système d'identificateurs d'entreprises à toute autre fin.

Centralisation des renseignements

(2) Si un accord est conclu en vertu du présent article avec une municipalité, un conseil local ou une autre entité municipale, le ministre chargé de l'identification des entreprises peut :

- a) exiger que la municipalité, le conseil local ou l'autre entité municipale lui fournisse les renseignements commerciaux prescrits;

- b) recevoir des renseignements commerciaux de la municipalité, du conseil local ou de l'autre entité municipale.

Communication des renseignements aux autres paliers de gouvernement

(3) Le ministre chargé de l'identification des entreprises peut communiquer les renseignements commerciaux qu'il reçoit aux termes du présent article :

- a) à une municipalité, à un conseil local ou à une autre entité municipale;
- b) à la Couronne du chef du Canada ou à son mandataire.

Idem : renseignements déjà reçus

(4) Après qu'un accord a été conclu en vertu du présent article, le paragraphe (3) s'applique aux renseignements commerciaux que le ministre chargé de l'identification des entreprises a reçus avant la conclusion de l'accord comme s'il les avait reçus après celle-ci.

Identificateurs d'entreprises et communication de renseignements : caractère confidentiel

8.4 L'obligation ou l'autorisation de communiquer des renseignements commerciaux aux termes des articles 8.1 à 8.3 ou d'un règlement pris en vertu de l'alinéa 8.5 (c) ou d) l'emporte sur toute disposition d'une autre loi ayant trait au caractère confidentiel, sauf si cette autre loi prévoit que la disposition en question l'emporte sur le présent article.

Identificateurs d'entreprises et communication de renseignements : règlements

8.5 Le lieutenant-gouverneur en conseil peut, par règlement :

- a) prévoir la façon dont les entreprises doivent utiliser le système d'identificateurs d'entreprises établi en vertu de la présente loi;
- b) prescrire des renseignements commerciaux pour l'application des articles 8.1 à 8.3;
- c) autoriser, à des fins précisées, la collecte, l'utilisation et la communication, par des personnes et des entités précisées, de renseignements commerciaux précis qui sont reçus aux termes d'une loi ou qui sont reçus d'une municipalité, d'un conseil local ou d'une autre entité municipale;
- d) autoriser, à des fins précisées, la collecte, l'utilisation et la communication, par des municipalités, des conseils locaux ou d'autres entités municipales, de renseignements commerciaux précis que le ministre chargé de l'identification des entreprises reçoit, selon le cas :
 - (i) aux termes d'une loi,
 - (ii) d'une municipalité, d'un conseil local ou d'une autre entité municipale.

65 L'article 18 de la Loi est modifié par adjonction de l'alinéa suivant :

- d) désigner des lois pour l'application de l'article 3.

LOI SUR LES RENSEIGNEMENTS EXIGÉS DES PERSONNES MORALES

66 (1) La Loi sur les renseignements exigés des personnes morales est modifiée par adjonction de l'intertitre suivant avant l'article 1 :

INTERPRÉTATION

(2) L'article 1 de la Loi est modifié par adjonction des définitions suivantes :

«directeur» Le directeur nommé en application de l'article 278 de la *Loi sur les sociétés par actions*. («Director»)

«jour» Jour franc. («day»)

«signature électronique» Marquage ou procédé d'identification qui a les caractéristiques suivantes :

- a) il est créé ou communiqué par un moyen de communication téléphonique ou électronique;
- b) il est joint ou associé à un document ou à d'autres renseignements;
- c) il est apporté ou adopté par la personne qui veut s'associer au document ou aux autres renseignements, selon le cas. («electronic signature»)

(3) La définition de «ministre» à l'article 1 de la Loi est abrogée et remplacée par ce qui suit :

«ministre» Le membre du Conseil exécutif à qui la responsabilité de l'application de la présente loi est assignée ou transférée en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

(4) L'article 1 de la Loi est modifié par adjonction de la définition suivante :

«moyen de communication téléphonique ou électronique» Tout moyen de communication qui fait appel au téléphone ou à tout autre moyen électronique ou technologique pour transmettre des renseignements ou des données — appel ou message

telephonique, télécopie, courrier électronique, système automatisé de téléphone à clavier, ordinateur ou réseau informatique. («telephonic or electronic means»)

(5) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Interprétation : période de jours

(2) Pour l'application de la présente loi, une période de jours est réputée commencer le jour qui suit l'événement qui marque le début de la période et prendre fin à minuit le dernier jour de cette période. Toutefois, si le dernier jour de la période tombe un jour férié, la période prend fin à minuit le prochain jour qui n'est pas un jour férié.

67 La Loi est modifiée par adjonction des articles suivants :

Passation des documents

1.1 Les rapports, avis ou autres documents qui doivent ou peuvent être passés par plusieurs personnes pour l'application de la présente loi peuvent être passés en plusieurs documents de même forme, dont chacun est passé par une ou plusieurs personnes. Ces documents, lorsqu'ils sont dûment passés par toutes les personnes qui doivent ou peuvent les passer, selon le cas, sont réputés constituer un seul document pour l'application de la présente loi.

APPLICATION

Délégation

1.2 (1) Le ministre peut déléguer par écrit à quiconque la totalité ou une partie des fonctions et pouvoirs que lui attribue la présente loi, sous réserve des restrictions énoncées dans l'acte de délégation.

Idem : directeur

(2) Le directeur peut déléguer par écrit à quiconque la totalité ou une partie des fonctions et pouvoirs que lui attribue la présente loi, sous réserve des restrictions énoncées dans l'acte de délégation.

Accords avec des personnes autorisées

1.3 (1) La définition qui suit s'applique au présent article.

«services de dépôt pour les entreprises» S'entend notamment des fonctions et pouvoirs du ministre ou du directeur et des services connexes.

Accords pour la fourniture de services de dépôt pour les entreprises

(2) Le ministre ou une personne qu'il désigne peut, au nom de la Couronne ou du chef de l'Ontario, conclure un ou plusieurs accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du directeur ou d'un autre représentant du gouvernement.

Pas un mandataire de la Couronne

(3) Sauf disposition contraire d'un règlement, la personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises n'est à aucune fin un mandataire de la Couronne, malgré la *Loi sur les organismes de la Couronne*.

Utilisation des dossiers et renseignements

(4) L'accord conclu en vertu du paragraphe (2) peut aussi comprendre des dispositions concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Aucune incidence de l'accord sur le pouvoir discrétionnaire de déléguer

(5) L'accord conclu en vertu du paragraphe (2) n'a pas d'incidence sur le pouvoir qu'a le ministre ou le directeur de déléguer des fonctions ou pouvoirs en vertu du paragraphe 1.2 (1) ou (2), selon le cas.

Aucun pouvoir de renoncer aux droits relatifs aux services ou de les rembourser

(6) La personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises ne peut pas renoncer à l'acquittement des droits pour un tel service qui sont payables à la province de l'Ontario, ni les rembourser, que ce soit en totalité ou en partie. Elle peut toutefois acquitter tout ou partie des droits pour le compte de la personne ou de l'entité à qui le service a été fourni.

Date présumée de réception par le ministre

(7) Les rapports, les avis et les autres documents et renseignements envoyés à une personne ou à une entité qui a conclu un accord en vertu du paragraphe (2) l'autorisant à les recevoir au nom du ministre sont réputés avoir été reçus par le ministre à la date à laquelle la personne ou l'entité autorisée les a reçus.

Accords visant l'utilisation des dossiers et renseignements

(8) Le ministre, le directeur ou une personne désignée par l'un ou l'autre peut conclure avec toute personne ou entité un accord concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Propriété de la Couronne

1.4 Les dossiers et renseignements tenus par le ministre et déposés auprès de lui en application de la présente loi appartiennent à la Couronne.

68 (1) La Loi est modifiée par adjonction de l'intertitre suivant avant le paragraphe 2 (1) :

DÉPÔTS ET DOSSIERS

(2) Le paragraphe 2 (2) de la Loi est abrogé et remplacé par ce qui suit :

Date de dépôt

(2) Sous réserve du paragraphe (3), le rapport initial doit être déposé dans les 60 jours qui suivent la date de constitution, de fusion ou de maintien de la personne morale.

Idem — avant l'enregistrement de la dénomination sociale

(3) Si la personne morale n'a pas été constituée, fusionnée ou maintenue sous le régime de la *Loi sur les sociétés par actions*, la *Loi sur les personnes morales*, la *Loi sur les sociétés coopératives* ou la *Loi de 2010 sur les organisations sans but lucratif* et qu'elle est tenue d'enregistrer une dénomination sociale en application de la *Loi sur les noms commerciaux*, le rapport initial doit être déposé avant que la dénomination sociale ne soit enregistrée.

69 Le paragraphe 3 (2) de la Loi est abrogé et remplacé par ce qui suit :

Date de dépôt

(2) Sous réserve des paragraphes (3) et (4), le rapport initial doit être déposé dans les 60 jours qui suivent la date où la personne morale commence à exercer des activités en Ontario.

Idem — avant l'enregistrement de la dénomination sociale

(3) Si la personne morale, à l'exclusion d'une personne morale qui est tenue d'être titulaire d'un permis délivré en application de la *Loi sur les personnes morales extraprovinciales*, est tenue d'enregistrer une dénomination sociale en application de la *Loi sur les noms commerciaux*, le rapport initial doit être déposé avant que la dénomination sociale ne soit enregistrée.

Idem — constitution révisée d'un mandataire aux fins de signification

(4) Si la personne morale est tenue de déposer une constitution révisée de mandataire aux fins de signification en application du paragraphe 19 (3) de la *Loi sur les personnes morales extraprovinciales*, le rapport initial doit être déposé sans délai après que le nom, l'adresse ou un autre détail important figurant dans la constitution du mandataire ait changé ou que le mandataire ait été remplacé.

70 (1) Le paragraphe 4 (1) de la Loi est abrogé et remplacé par ce qui suit :

Avis de modification

(1) Sous réserve des paragraphes (2.1), (3), (4) et (5), chaque personne morale dépose auprès du ministre un avis de modification relatif à toute modification des renseignements déposés en application de la présente loi, dans les 15 jours qui suivent la modification.

(2) L'article 4 de la Loi est modifié par adjonction des paragraphes suivants :

Changement de mandataire aux fins de signification

(2.1) L'avis de modification doit être déposé sans délai après que le nom, l'adresse ou un autre détail important figurant dans la constitution du mandataire devant être déposée en application du paragraphe 19 (3) de la *Loi sur les personnes morales extraprovinciales* a changé ou que le mandataire a été remplacé.

Idem

(5) La personne morale extraprovinciale qui est tenue, en application de la *Loi sur les personnes morales extraprovinciales*, de demander un permis modifié parce qu'elle a changé son nom, ou a été contrainte de le faire, ou parce qu'elle a été maintenue sous le régime des lois d'une autre autorité législative ne doit pas déposer d'avis de modification à l'égard de ces changements.

71 Le paragraphe 5 (1) de la Loi est abrogé et remplacé par ce qui suit :

Attestation

(1) Chaque rapport déposé en application de l'article 2, 3 ou 3.1 et chaque avis déposé en application de l'article 4 portent l'attestation :

- a) soit d'un dirigeant ou d'un administrateur de la personne morale;
- b) soit d'un particulier qui a été autorisé à cette fin par les administrateurs de la personne morale et qui est au courant des activités de la personne morale.

72 Le paragraphe 6 (2) de la Loi est abrogé et remplacé par ce qui suit :

Idem

(2) À la réception de l'avis, la personne morale fait le dépôt spécial selon le formulaire approuvé et de la manière et dans le délai prescrits.

73 Le paragraphe 7.1 (2) de la Loi est abrogé et remplacé par ce qui suit :

Idem

(2) Les avis ou autres documents visés au paragraphe (1) peuvent être envoyés par un moyen de communication téléphonique ou électronique si leur envoi est consigné. Il est entendu que l'envoi d'un avis ou d'un autre document par un moyen de communication téléphonique ou électronique n'exige pas le consentement du destinataire prévu.

74 La Loi est modifiée par adjonction des articles suivants :

Dépôt par télécopie

7.2 Malgré tout règlement pris en vertu de l'article 21.1, les rapports, les avis et les autres documents ne peuvent être déposés par télécopie qu'avec le consentement du directeur.

Primauté de la version électronique

7.3 Si un rapport, un avis ou un document prescrit est déposé sous forme électronique, en cas d'incompatibilité, la version électronique enregistrée dans un système électronique tenu en application de l'article 9, ou l'imprime de la version électronique, l'emporte sur toute autre version existante du rapport, de l'avis ou du document prescrit, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du directeur.

Échange de renseignements

8.1 (1) S'il reçoit tous les renseignements prescrits visés au paragraphe 3 (1), 3.1 (4) ou 4 (2), selon le cas, d'une autorité législative prescrite chargée de l'application d'une loi de cette autorité législative régissant une personne morale extraprovinciale, le ministre peut les consigner dans le dossier visé à l'article 8 comme si la personne morale avait déposé le rapport ou l'avis exigé à l'article 3, 3.1 ou 4. La personne morale est alors réputée avoir déposé le rapport ou l'avis en application de cet article.

Renseignements provenant de deux sources

(2) Sous réserve des règlements, s'il reçoit certains renseignements prescrits d'une autorité législative prescrite visée au paragraphe (1) et qu'il reçoit tous les autres renseignements prescrits restants de la personne morale, le ministre peut les consigner dans le dossier visé à l'article 8 comme si la personne morale avait déposé le rapport ou l'avis exigé à l'article 3, 3.1 ou 4. La personne morale est alors réputée avoir déposé le rapport ou l'avis en application de cet article.

Envoi d'un avis à la personne morale

(3) Le ministre avise la personne morale, dans les 15 jours qui suivent celui où il consigne des renseignements dans le dossier en vertu du paragraphe (1), que les renseignements devant être compris dans le rapport ou l'avis exigé à l'article 3, 3.1 ou 4 ont été reçus d'une autorité législative prescrite et ont été consignés dans le dossier visé à l'article 8.

Renseignements envoyés à des autorités législatives prescrites

(4) Le ministre peut envoyer des renseignements qui ont été déposés par une personne morale en application de la présente loi à une autorité législative prescrite chargée de l'application d'une loi régissant la personne morale.

Renseignements non contenus dans un rapport ou un avis

(5) Sous réserve des règlements, s'il reçoit des renseignements selon lesquels une personne morale est dissoute, ou qu'il reçoit d'une autorité législative prescrite d'autres renseignements prescrits à l'égard d'une personne morale, le ministre peut les consigner dans les dossiers tenus en application de l'article 9.

75 Les paragraphes 9 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Admissibilité en preuve

(2) Si le ministre tient des dossiers sous une forme non écrite :

- a) il doit donner les copies exigées par le paragraphe 10 (2) sous une forme écrite compréhensible;
- b) les rapports extraits de ces dossiers qui se présentent comme certifiés par le ministre ou par un fonctionnaire visé au paragraphe 20 (1) sont admissibles en preuve sans qu'il soit nécessaire d'établir la qualité officielle du présumé signataire du certificat ou l'authenticité de sa signature.

76 Le paragraphe 10 (1) de la Loi est abrogé et remplacé par ce qui suit :

Recherche de dossiers

(1) Sur paiement des droits exigés, toute personne a le droit, par un moyen de recherche approuvé par le directeur, de chercher le dossier relatif à un document déposé en application de l'article 2, 3, 3.1, 4, 6 ou 7 ou d'un des articles que ceux-ci remplacent et d'en obtenir des copies.

77 La Loi est modifiée par adjonction des articles suivants :

Documents mis à la disposition du public

10.1 Le directeur peut mettre ce qui suit à la disposition du public, notamment en les publiant :

- a) les avis ou les autres documents envoyés par le ministre en application de la présente loi;
- b) les documents dont la présente loi, les règlements ou le directeur exigent l'envoi au ministre en application de la présente loi.

Impossibilité de recevoir des dépôts dans le système électronique

10.2 (1) Malgré tout règlement pris en vertu de l'alinéa 21.1 (1) e), s'il est d'avis que, pour une raison quelconque, il est impossible de recevoir des rapports, des avis et d'autres documents et renseignements déposés sous forme électronique dans un système électronique tenu en application de l'article 9, le directeur peut exiger qu'ils soient déposés sous forme imprimée seulement, conformément aux exigences éventuelles du directeur, ou sous une autre forme électronique qu'il approuve.

Idem — Conservation des dépôts et des demandes jusqu'à ce que le système soit en service

(2) S'il est d'avis que, pour une raison quelconque, il est impossible de consigner dans le dossier les renseignements provenant des rapports, des avis ou d'autres documents au moyen d'un système électronique tenu en application de l'article 9, le directeur peut conserver les rapports, les avis et les autres documents et renseignements qui ont été déposés jusqu'à ce qu'il puisse les consigner dans le dossier conformément à la présente loi, aux règlements et aux exigences éventuelles du directeur.

Idem — Recherches

(3) S'il est d'avis que, pour une raison quelconque, il est impossible d'effectuer des recherches dans un système électronique tenu en application de l'article 9, le directeur peut conserver les demandes de recherches qui ont été déposées jusqu'à ce que les recherches puissent être effectuées.

Copie d'avis ou d'autre document acceptée

10.3 Lorsque la présente loi exige l'envoi au ministre d'un avis ou d'un autre document, le ministre peut en accepter une copie, y compris une copie électronique.

78 (1) Le paragraphe 11 (1) de la Loi est modifié par remplacement de «de la Loi sur les personnes morales ou de la Loi sur les sociétés coopératives» par «de la Loi sur les sociétés coopératives, de la Loi sur les personnes morales, de la Loi sur les personnes morales extraprovinciales ou de la Loi de 2010 sur les organisations sans but lucratif» à la fin du paragraphe.

(2) Le paragraphe 11 (2) de la Loi est abrogé et remplacé par ce qui suit :

Caractère confidentiel des renseignements

(2) Le ministre, une personne employée au ministère ou tout autre fonctionnaire autorisé à recueillir ou à examiner les renseignements contenus dans un rapport visé au paragraphe (1) ne peut divulguer ces renseignements que si la divulgation est nécessaire à l'application ou à l'exécution de la présente loi, de la *Loi sur les sociétés par actions*, de la *Loi sur les sociétés coopératives*, de la *Loi sur les personnes morales*, de la *Loi sur les personnes morales extraprovinciales* ou de la *Loi de 2010 sur les organisations sans but lucratif*, ou que si elle est exigée par le tribunal dans le cadre d'une instance.

79 L'article 12 de la Loi est abrogé.

80 La Loi est modifiée par adjonction de l'intertitre suivant avant le paragraphe 13 (1) :

EXÉCUTION

81 La Loi est modifiée par adjonction de l'intertitre suivant avant le paragraphe 18 (1) :

DISPOSITIONS GÉNÉRALES

82 (1) L'article 19 de la Loi est modifié par adjonction de l'alinéa suivant :

f) le fait que la personne morale a fait l'une ou l'autre des choses suivantes :

- (i) elle a effectué les dépôts dont la présente loi exige l'envoi au ministère.
- (ii) elle a acquitté tous les droits prévus par la présente loi, la *Loi sur les sociétés par actions*, la *Loi sur les noms commerciaux*, la *Loi sur les personnes morales*, la *Loi sur les personnes morales extraprovinciales*, la *Loi sur les sociétés en commandite* ou la *Loi de 2010 sur les organisations sans but lucratif*.
- (iii) elle n'a pas omis de se conformer à une loi prescrite.
- (iv) elle existe à la date ou aux dates précisées.

(2) L'article 19 de la Loi est modifié par adjonction du paragraphe suivant :

Refus de délivrer le certificat

(2) Le ministre peut refuser de délivrer un certificat visé à l'alinéa (1) f) s'il sait que la personne morale a omis d'envoyer un document dont la présente loi exige l'envoi, de se conformer à une loi prescrite ou d'acquitter des droits exigés.

83 L'article 20 de la Loi est abrogé et remplacé par ce qui suit :

Certificat du ministre

20 (1) Si la présente loi oblige ou autorise le ministre à délivrer un certificat, y compris une attestation de faits, ou une copie certifiée conforme d'un document, le certificat ou la copie doit porter la signature du ministre ou d'un fonctionnaire employé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* et désigné par les règlements.

Preuve

(2) Le certificat ou la copie certifiée conforme qui se présente comme étant signé par le ministre ou par un fonctionnaire visé au paragraphe (1) est reçu en preuve dans toute poursuite ou autre instance comme preuve, en l'absence de preuve contraire, des faits qui y sont énoncés sans que la comparution en personne soit nécessaire pour prouver l'authenticité de la signature ou la qualité officielle du présumé signataire.

Reproduction de la signature

(3) Pour l'application du présent article, la signature du ministre ou d'un fonctionnaire peut être reproduite mécaniquement, notamment sous forme imprimée ou électronique.

Méthodes de délivrance

20.1 Le ministre peut délivrer les certificats, les copies certifiées conformes et les autres documents par tout moyen et peut utiliser ou délivrer des codes de validation ou d'autres systèmes ou méthodes de validation à l'égard de la délivrance.

84 (1) L'article 21.1 de la Loi est abrogé et remplacé par ce qui suit :

Règlements et arrêtés du ministre

Règlements

21.1 (1) Le ministre peut, par règlement :

- a) prescrire ou régir tout ce que la présente loi mentionne comme étant prescrit ou fait par règlement ou conformément aux règlements;
- b) dispenser une ou plusieurs catégories de personnes morales de l'obligation de déposer les rapports ou les avis prévus à l'article 2, 3, 3.1 ou 6;
- c) traiter de la teneur, de la forme et du dépôt des rapports, des avis et des autres documents et renseignements déposés ou délivrés en application de la présente loi, ainsi que de la forme et de l'acquiescement des droits, et régir ces aspects;
- d) traiter de la façon de rédiger, de présenter et d'accepter les rapports, les avis et les autres documents et renseignements déposés en application de la présente loi, de l'acquiescement des droits et de l'établissement de la date de réception, et régir ces aspects;
- e) désigner les rapports, les avis et les autres documents et renseignements qui doivent être déposés en application de la présente loi :
 - (i) sous forme imprimée ou électronique,
 - (ii) sous forme électronique seulement,
 - (iii) sous forme imprimée seulement;
- f) sous réserve des conditions précisées dans le règlement, prescrire et régir les documents et les renseignements qui doivent accompagner les rapports, les avis et les autres formulaires approuvés mentionnés à l'article 21.3 et préciser, pour chacune des formes désignées visées à l'alinéa e) :

- (i) les documents et les renseignements qui doivent être déposés auprès du ministère avec les rapports, les avis et les autres formulaires approuvés mentionnés à l'article 21.3,
- (ii) les documents et les renseignements qui doivent être conservés par la personne morale et qui, à la réception de l'avis écrit du directeur et conformément à cet avis, et sous réserve des conditions qu'il impose, doivent être déposés auprès du ministère ou remis à l'autre personne qui y est précisée;
- g) permettre au directeur, sous réserve des conditions qu'il impose, de faire ce qui suit pour chacune des formes désignées visées à l'alinéa e) :
 - (i) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa f) (i) soient conservés par la personne morale et, à la réception de l'avis écrit du directeur et conformément à cet avis, soient déposés auprès du ministère ou remis à l'autre personne qui y est précisée,
 - (ii) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa f) (ii) soient déposés auprès du ministère avec les rapports, les avis et les autres formulaires approuvés mentionnés à l'article 21.3;
- h) régir les conditions que le directeur peut imposer conformément à un règlement pris en vertu du sous-alinéa f) (ii) ou de l'alinéa g);
- i) traiter de la délivrance de documents par le directeur ou le ministre, y compris des règles relatives à la délivrance par des moyens électroniques, et régir ces aspects;
- j) régir l'attribution de numéros de personne morale en vertu de l'article 21.5;
- k) régir la conservation et la destruction des rapports, des avis et des autres documents et renseignements déposés en application de la présente loi, notamment la forme sous laquelle ils doivent être conservés;
- l) prescrire les fonctions et pouvoirs du directeur, outre ceux énoncés dans la présente loi;
- m) désigner les fonctionnaires ou les catégories de fonctionnaires employés aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* chargés de délivrer des certificats et des copies certifiées conformes aux termes du paragraphe 20 (1);
- n) prévoir qu'une personne ou une entité qui conclut un accord en vertu du paragraphe 1.3 (2) est un mandataire de la Couronne et préciser les services et les fins à l'égard desquels la personne ou l'entité est considérée comme un mandataire de la Couronne;
- o) définir des mots ou expressions employés mais non expressément définis dans la présente loi;
- p) prescrire toute question que le ministre estime nécessaire ou souhaitable pour l'application de la présente loi;
- q) prévoir les questions transitoires que le ministre estime nécessaires ou souhaitables relativement à la mise en application des modifications à la présente loi édictées par l'annexe 6 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*.

Incorporation continue par renvoi

(2) Un règlement pris en vertu du paragraphe (1) qui incorpore un autre document par renvoi peut prévoir que le renvoi au document vise également les modifications qui y sont apportées après la prise du règlement.

Droits

(3) Le ministre peut, par arrêté, exiger l'acquiescement de droits pour les rapports de recherche, les copies de documents ou de renseignements ou les autres services prévus par la présente loi, en approuver le montant et prévoir la renonciation à ces droits ou leur remboursement, en totalité ou en partie.

Non-application de la Loi de 2006 sur la législation

(4) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas à un arrêté pris par le ministre en vertu du paragraphe (3).

(2) L'alinéa 21.1 (1) q) de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

85 L'article 21.3 de la Loi est abrogé et remplacé par ce qui suit :

Formulaires

21.3 (1) Le directeur peut exiger que les formulaires qu'il approuve en application de la présente loi ou de la *Loi sur les personnes morales extraprovinciales* soient utilisés à toute fin prévue par la présente loi.

Non-application de la Loi de 2006 sur la législation

(2) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

Exigences établies par le directeur

21.4 (1) Le directeur peut établir des exigences qui :

- a) traitent de la teneur, de la forme et du dépôt des rapports, des avis et des autres documents et renseignements déposés ou délivrés en application de la présente loi, ainsi que de la forme et de l'acquittement des droits, et régissent ces aspects;
- b) traitent de la façon de rédiger, de présenter et d'accepter les rapports, les avis et les autres documents et renseignements déposés en application de la présente loi, de l'acquittement des droits et de l'établissement de la date de réception, et régissent ces aspects;
- c) précisent que les rapports, les avis et les autres documents et renseignements ne peuvent être déposés en application de la présente loi, et les droits acquittés, que par une personne autorisée par le directeur ou appartenant à une catégorie de personnes autorisées par le directeur;
- d) régissent l'autorisation des personnes visées à l'alinéa c), notamment :
 - (i) en fixant les conditions et exigences auxquelles il faut satisfaire pour devenir une personne autorisée,
 - (ii) en assortissant l'autorisation de conditions, notamment de conditions régissant le dépôt des rapports, des avis et des autres documents et renseignements ainsi que l'acquittement des droits,
 - (iii) en exigeant de toute personne qui demande une autorisation qu'elle conclue avec le directeur ou avec la personne qu'il désigne un accord régissant le dépôt des rapports, des avis et des autres documents et renseignements;
- e) précisent si les rapports, les avis et les autres formulaires approuvés mentionnés à l'article 21.3 et les documents à l'appui doivent être signés et, si oui, lesquels doivent l'être, précisent des exigences ayant trait à leur signature et régissent la forme des signatures, notamment en établissant des règles à l'égard des signatures électroniques;
- f) précisent et régissent les façons de passer les rapports, les avis et les autres formulaires approuvés mentionnés à l'article 21.3 et les documents à l'appui autrement qu'en les signant, et établissent des règles à cet égard;
- g) précisent les exigences selon lesquelles les personnes morales qui déposent électroniquement des rapports, des avis et d'autres formulaires approuvés mentionnés à l'article 21.3 doivent conserver à leur siège social une version sous forme imprimée ou électronique de ceux-ci, passés en bonne et due forme et, si un avis du directeur l'exige, fournir à ce dernier une copie de la version passée dans le délai indiqué dans l'avis;
- h) établissent les délais et les circonstances dans lesquels les rapports, les avis ou les autres documents et renseignements sont considérés comme ayant été envoyés au ministère ou reçus par ce dernier, ainsi que le lieu où ils sont considérés comme l'ayant été;
- i) établissent les normes et les exigences technologiques applicables au dépôt des rapports, des avis ou des autres documents et renseignements auprès du ministère sous forme électronique et à l'acquittement des droits sous forme électronique;
- j) traitent de l'autorisation d'un particulier qui peut attester un rapport ou un avis en application du paragraphe 5 (1);
- k) précisent le type de copie d'une ordonnance du tribunal ou d'un autre document délivré par le tribunal qui peut être déposée auprès du ministère;
- l) traitent de la délivrance de documents par le directeur ou le ministre, y compris des règles relatives à la délivrance par des moyens électroniques, et régissent ces aspects;
- m) régissent l'attribution de numéros de personne morale en vertu de l'article 21.5;
- n) régissent les recherches et les moyens de recherche dans les dossiers pour l'application du paragraphe 10 (1).

Catégories

(2) Pour l'application de l'alinéa (1) c), une catégorie peut être définie :

- a) soit en fonction d'un attribut ou d'une combinaison d'attributs;
- b) soit de façon à être constituée d'un membre donné ou à comprendre ou exclure un tel membre

Entente conclue en vertu de l'art. 21.2

(3) Les exigences relatives au dépôt établies en vertu du présent article ne s'appliquent pas aux rapports déposés conformément à une entente conclue en vertu de l'article 21.2.

Non-application de la Loi de 2006 sur la législation

(4) La partie III (Règlements) de la Loi de 2006 sur la législation ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

Incompatibilité

(5) En cas d'incompatibilité, les règlements pris en vertu de la présente loi l'emportent sur les exigences établies en vertu du présent article.

Attribution de numéros de personne morale à des personnes morales existantes

21.5 (1) Le directeur peut, s'il l'estime indiqué, attribuer un numéro de personne morale à une personne morale à laquelle il n'a pas déjà été attribué de numéro.

Idem : modification du numéro

(2) Si, par mégarde ou autrement, le directeur a attribué à la personne morale un numéro de personne morale déjà attribué à une autre, il peut, sans tenir d'audience, modifier le numéro attribué à la personne morale.

Idem

(3) Si, pour une raison quelconque, le directeur a attribué plus d'un numéro de personne morale à une personne morale, il peut, sans tenir d'audience, décider quel numéro lui sera attribué.

86 L'article 22 de la Loi est abrogé.

87 Les paragraphes 85 (4) et (5) de l'annexe E de la *Loi de 1998 visant à réduire les formalités administratives* sont abrogés.

LOI SUR LES PERSONNES MORALES EXTRAPROVINCIALES

88 (1) La *Loi sur les personnes morales extraprovinciales* est modifiée par adjonction de l'intertitre suivant avant le paragraphe 1 (1) :

INTERPRÉTATION

(2) Le paragraphe 1 (1) de la Loi est modifié par adjonction des définitions suivantes :

«jour» Jour franc. («day»)

«signature électronique» Marquage ou procédé d'identification qui a les caractéristiques suivantes :

- a) il est créé ou communiqué par un moyen de communication téléphonique ou électronique;
- b) il est joint ou associé à un document ou à d'autres renseignements;
- c) il est apporté ou adopté par la personne qui veut s'associer au document ou aux autres renseignements, selon le cas. («electronic signature»)

(3) La définition de «apposer» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«produire» S'entend notamment de ce qui suit :

- a) l'apposition d'une estampille, conformément au paragraphe 5 (2), au recto de la demande envoyée au directeur;
- b) la création électronique de l'équivalent d'une estampille à l'égard de la demande ou des autres documents envoyés au directeur. («endorse»)

(4) La définition de «ministre» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«ministre» Le membre du Conseil exécutif à qui la responsabilité de l'application de la présente loi est assignée ou transférée en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

(5) Le paragraphe 1 (1) de la Loi est modifié par adjonction de la définition suivante :

«moyen de communication téléphonique ou électronique» Tout moyen de communication qui fait appel au téléphone ou à tout autre moyen électronique ou technologique pour transmettre des renseignements ou des données — appel ou message téléphonique, télécopie, courrier électronique, système automatisé de téléphone à clavier, ordinateur ou réseau informatique. («telephonic or electronic means»)

(6) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Interprétation : période de jours

(4) Pour l'application de la présente loi, une période de jours est réputée commencer le jour qui suit l'événement qui marque le début de la période et prendre fin à minuit le dernier jour de cette période. Toutefois, si le dernier jour de la période tombe un jour férié, la période prend fin à minuit le prochain jour qui n'est pas un jour férié.

89 La Loi est modifiée par adjonction de l'article suivant :

Passation des documents

1.1 Les demandes ou autres documents qui doivent ou peuvent être passés par plusieurs personnes pour l'application de la présente loi peuvent être passés en plusieurs documents de même forme, dont chacun est passé par une ou plusieurs personnes. Ces documents, lorsqu'ils sont dûment passés par toutes les personnes qui doivent ou peuvent les passer, selon le cas, sont réputés constituer un seul document pour l'application de la présente loi.

90 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

APPLICATION

Nomination du directeur

3 Le ministre nomme un directeur chargé d'exercer les fonctions et les pouvoirs que la présente loi attribue au directeur.

Délégation des fonctions et pouvoirs du directeur

3.1 Le directeur peut déléguer par écrit à quiconque la totalité ou une partie des fonctions et pouvoirs que lui attribue la présente loi, sous réserve des restrictions énoncées dans l'acte de délégation.

Signature

3.2 (1) Si la présente loi oblige ou autorise le directeur à produire un permis ou à délivrer un certificat, y compris une attestation de faits, ou une copie certifiée conforme d'un document, le permis, le certificat ou la copie certifiée conforme doit porter la signature du directeur ou d'un fonctionnaire employé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* et désigné par les règlements.

Preuve

(2) Le permis ou le certificat visé au paragraphe (1), ou sa copie certifiée conforme, constitue la preuve, en l'absence de preuve contraire, des faits qui y sont attestés dans toute action ou instance civile, pénale ou administrative, sans que la comparution personnelle soit nécessaire pour prouver l'authenticité de la signature ou la qualité officielle du présumé signataire du permis produit ou du certificat délivré.

Reproduction de la signature

(3) Pour l'application du présent article, toute signature autorisée par le présent article peut être reproduite mécaniquement, notamment sous forme imprimée ou électronique.

Accords avec des personnes autorisées

3.3 (1) La définition qui suit s'applique au présent article.

«services de dépôt pour les entreprises» S'entend notamment des fonctions et pouvoirs du directeur et des services connexes.

Accords pour la fourniture de services de dépôt pour les entreprises

(2) Le ministre ou une personne qu'il désigne peut, au nom de la Couronne du chef de l'Ontario, conclure un ou plusieurs accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du directeur ou d'un autre représentant du gouvernement.

Pas un mandataire de la Couronne

(3) Sauf disposition contraire d'un règlement, la personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises n'est à aucune fin un mandataire de la Couronne, malgré la *Loi sur les organismes de la Couronne*.

Utilisation des dossiers et renseignements

(4) L'accord conclu en vertu du paragraphe (2) peut aussi comprendre des dispositions concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Aucune incidence de l'accord sur le pouvoir discrétionnaire de déléguer

(5) L'accord conclu en vertu du paragraphe (2) n'a pas d'incidence sur le pouvoir qu'a le directeur de déléguer des fonctions ou pouvoirs en vertu de l'article 3.1.

Aucun pouvoir de renoncer aux droits relatifs aux services ou de les rembourser

(6) La personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises ne peut pas renoncer à l'acquiescement des droits pour un tel service qui sont payables à la province de l'Ontario, ni les rembourser, que ce soit en totalité ou en partie. Elle peut toutefois acquitter tout ou partie des droits pour le compte de la personne ou de l'entité à qui le service a été fourni.

Date présumée de réception par le directeur

(7) Les demandes et les autres documents et renseignements envoyés à une personne ou à une entité qui a conclu un accord en vertu du paragraphe (2) l'autorisant à les recevoir au nom du directeur sont réputés avoir été reçus par le directeur à la date à laquelle la personne ou l'entité autorisée les a reçus.

Accords visant l'utilisation des dossiers et renseignements

(8) Le ministre, le directeur ou une personne désignée par l'un ou l'autre peut conclure avec toute personne ou entité un accord concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Propriété de la Couronne

3.4 Les dossiers et renseignements tenus par le directeur et déposés auprès de lui en application de la présente loi appartiennent à la Couronne.

91 La Loi est modifiée par adjonction de l'intertitre suivant avant le paragraphe 4 (1) :

DÉLIVRANCE DE PERMIS

92 Les paragraphes 5 (1), (2), (3) et (4) de la Loi sont abrogés et remplacés par ce qui suit :

Demande de permis

(1) Sauf disposition contraire de la présente loi, des règlements ou des exigences du directeur, une personne morale extraprovinciale peut présenter une demande de permis, de permis modifié ou de résiliation de permis en envoyant une demande au directeur.

Demande sous forme imprimée

(2) Si la demande est envoyée au directeur sous forme imprimée, un original de la demande doit être signé par un administrateur ou un dirigeant de la personne morale et envoyé au directeur selon le formulaire prescrit.

Demande sous forme électronique

(3) Si la demande est envoyée au directeur sous forme électronique, elle doit :

- a) satisfaire aux exigences en matière de signature ou d'autorisation établies par le directeur en vertu de l'article 24.4;
- b) être envoyée au directeur sous une forme prescrite par le ministre ou exigée par le directeur.

Production par le directeur

(4) Sauf disposition contraire de la présente loi, des règlements ou des exigences du directeur, lorsque le directeur reçoit une demande remplie conformément au paragraphe (2) ou (3), il peut produire à son égard un permis, un permis modifié ou une résiliation de permis qui indique le jour, le mois et l'année de sa production ainsi que le numéro de personne morale.

Idem

(4.1) Le directeur qui produit une inscription à l'égard de la demande fait ce qui suit :

- a) il dépose la demande à l'égard de laquelle l'inscription a été produite dans les dossiers tenus en application de l'article 16.1;
- b) il envoie à la personne morale ou à son représentant, ou met autrement à sa disposition, une copie du permis, du permis modifié ou de la résiliation de permis.

Date de production

(4.2) La date de la production visée au paragraphe (4) doit être :

- a) soit celle du jour où le directeur reçoit ce qui suit :
 - (i) la demande remplie conformément au paragraphe (2) ou (3),
 - (ii) tous les autres documents exigés, passés conformément à la présente loi, aux règlements et aux exigences du directeur,
 - (iii) tous les autres renseignements exigés,
 - (iv) les droits exigés;
- b) soit une date ultérieure que le directeur juge acceptable et qui est précisée par la personne ayant présentée la demande.

Date d'effet de la production

(4.3) La production faite en vertu du présent article prend effet à la date qui y est indiquée, même si les mesures que doit prendre le directeur en application de la présente loi relativement à la production d'une inscription à l'égard de la demande et au dépôt ou à l'enregistrement du permis, du permis modifié ou de la résiliation de permis sont prises à une date ultérieure.

Erreur dans l'attribution du numéro de personne morale

(4.4) Si, par mégarde ou autrement, le directeur a attribué à la personne morale un numéro de personne morale déjà attribué à une autre, il peut, sans tenir d'audience, modifier le numéro attribué à la personne morale. Par la suite, tout permis produit pour la personne morale sous le régime de la présente loi doit porter le nouveau numéro de la personne morale.

Nouvelle délivrance de permis

(4.5) Si un nouveau numéro de personne morale est attribué à une personne morale en vertu du paragraphe (4.4), le directeur peut délivrer le permis de nouveau. Le permis nouvellement délivré doit porter le nouveau numéro de la personne morale.

Numéro de personne morale rectifié

(4.6) Si le directeur a produit un permis, un permis modifié ou une résiliation de permis qui indique le numéro de la personne morale de façon erronée, il peut y substituer un permis rectifié portant la date du permis qu'il remplace.

Idem

(4.7) Si, pour une raison quelconque, le directeur a attribué plus d'un numéro de personne morale à une personne morale, il peut, sans tenir d'audience, décider quel numéro lui sera attribué et peut annuler un permis indiquant un numéro de personne morale qui n'est plus attribué à la personne morale.

93 La Loi est modifiée par adjonction des articles suivants :**Primauté de la version électronique**

5.1 (1) Si une demande visée au paragraphe 5 (1) est déposée sous forme électronique, en cas d'incompatibilité, la version électronique de la demande à l'égard de laquelle le permis, le permis modifié ou la résiliation de permis a été produit dans le cadre de la présente loi et qui est enregistrée dans un système électronique tenu en application de l'article 16.1, ou l'imprimé de la version électronique, l'emporte sur toute autre version existante de la demande, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du directeur.

Idem : documents prescrits

(2) Si un document prescrit est déposé sous forme électronique, en cas d'incompatibilité, la version électronique du document enregistrée dans un système électronique tenu en application de l'article 16.1, ou l'imprimé de la version électronique, l'emporte sur toute autre version existante du document, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du directeur.

Dépôt par télécopie

5.2 Malgré tout règlement pris en vertu de l'article 24.1, les demandes et les autres documents ne peuvent être déposés par télécopie qu'avec le consentement du directeur.

94 La version française de l'article 6 de la Loi est abrogée et remplacée par ce qui suit :**Refus de produire l'inscription**

6 (1) Si le directeur refuse de produire une inscription à l'égard d'une demande comme il est tenu de le faire aux termes de la présente loi pour y donner effet, il donne par écrit à l'expéditeur un avis motivé de son refus.

Idem

(2) Si le directeur n'a pas produit d'inscription à l'égard de la demande visée au paragraphe 5 (1) dans les six mois de la date à laquelle elle lui a été envoyée, il est réputé, pour l'application de l'article 8, avoir refusé de le faire.

95 (1) La version française de l'alinéa 8 (1) a) de la Loi est abrogée et remplacée par ce qui suit :

a) de refuser de produire une inscription à l'égard d'une demande;

(2) La version française de l'alinéa 8 (1) d) de la Loi est abrogée et remplacée par ce qui suit :

d) d'exiger qu'un permis rectifié soit produit aux termes de l'article 13;

96 L'article 13 de la Loi est abrogé et remplacé par ce qui suit :**Erreur dans le permis**

13 (1) En cas d'erreur dans le permis, la personne morale peut demander au directeur un permis rectifié et, à la demande de ce dernier et dans le délai qu'il précise, elle doit lui remettre le permis.

Idem

(2) S'il a connaissance d'une erreur dans le permis, le directeur peut aviser la personne morale qu'un permis rectifié pourrait être exigé et la personne morale doit, à la demande du directeur et dans le délai qu'il précise, lui remettre le permis.

Production du permis rectifié

(3) Après avoir donné à la personne morale l'occasion d'être entendue à l'égard d'une erreur visée au paragraphe (1) ou (2), le directeur produit un permis rectifié s'il l'estime indiqué et qu'il est convaincu que la personne morale a pris les mesures qu'il a exigées.

Date du permis rectifié

(4) Le permis rectifié produit aux termes du paragraphe (3) peut porter la date de celui qu'il remplace.

Idem

(5) Si une rectification a été faite à l'égard de la date de production, le permis rectifié doit porter la date rectifiée.

97 La Loi est modifiée par adjonction de l'intertitre suivant avant le paragraphe 14 (1) :

DISPOSITIONS GÉNÉRALES

98 La version française de l'alinéa 16 a) de la Loi est abrogée et remplacée par ce qui suit :

a) la production ou non-production du permis d'une personne morale;

99 La Loi est modifiée par adjonction des articles suivants :

Forme des dossiers du directeur

16.1 (1) Les dossiers dont la présente loi exige la tenue par le directeur peuvent être conservés sous forme imprimée, sous forme électronique ou sous forme de films ou peuvent être enregistrés à l'aide d'un procédé mécanique ou électronique de traitement des données ou de stockage de l'information qui peut reproduire les renseignements requis sous une forme exacte et compréhensible dans un délai raisonnable.

Admissibilité en preuve

(2) Si le directeur tient des dossiers sous une forme non écrite :

a) il doit donner les copies exigées par la présente loi sous une forme écrite compréhensible;

b) les rapports extraits de ces dossiers qui se présentent comme certifiés par le directeur ou un par fonctionnaire visé à l'article 3.2 sont admissibles en preuve sans qu'il soit nécessaire d'établir la qualité officielle du presume signataire du certificat ou l'authenticité de sa signature.

Copie à la place du document

(3) Le directeur n'est pas tenu de présenter un document dont une copie est donnée conformément à l'alinéa (2) a).

Recherche de dossiers

(4) Sur acquittement des droits exigés, toute personne a le droit, par un moyen de recherche approuvé par le directeur, de rechercher tout document que la présente loi, les règlements ou le directeur exigent d'envoyer à ce dernier et d'en obtenir des copies.

Documents mis à la disposition du public

16.2 Le directeur peut mettre ce qui suit à la disposition du public, notamment en les publiant :

a) les documents envoyés par le directeur en application de la présente loi;

b) les documents dont la présente loi, les règlements ou le directeur exigent l'envoi au directeur en application de la présente loi.

Impossibilité de recevoir des dépôts dans le système électronique

16.3 (1) Malgré tout règlement pris en vertu de l'alinéa 24.1 (1) f), s'il est d'avis que, pour une raison quelconque, il est impossible de recevoir des demandes et d'autres documents et renseignements sous forme électronique dans un système électronique tenu en application de l'article 16.1, le directeur peut exiger qu'ils soient déposés sous forme imprimée seulement, conformément aux exigences éventuelles du directeur, ou sous une autre forme électronique qu'il approuve.

Idem — Conservation des dépôts et des demandes jusqu'à ce que le système soit en service

(2) S'il est d'avis que, pour une raison quelconque, il est impossible de produire des inscriptions à l'égard des demandes ou de délivrer d'autres documents au moyen d'un système électronique tenu en application de l'article 16.1, le directeur peut conserver les demandes et les autres documents qui ont été déposés jusqu'à ce qu'il puisse les délivrer ou produire une inscription à leur égard conformément à la présente loi, aux règlements et aux exigences éventuelles du directeur.

Idem — Recherches

(3) S'il est d'avis que, pour une raison quelconque, il est impossible d'effectuer des recherches dans un système électronique tenu en application de l'article 16.1, le directeur peut conserver les demandes de recherches qui ont été déposées jusqu'à ce que les recherches puissent être effectuées.

Copie d'avis ou d'autre document acceptée

16.4 (1) Lorsque la présente loi exige l'envoi au directeur d'un avis ou d'un autre document, le directeur peut en accepter une copie, y compris une copie électronique.

Exception

(2) Sauf disposition contraire des règlements, le paragraphe (1) ne s'applique pas aux demandes déposées sous forme imprimée.

100 L'article 17 de la Loi est abrogé.

101 (1) Le paragraphe 19 (2) de la Loi est modifié par remplacement de «selon la formule prescrite» par «selon le formulaire approuvé».

(2) Le paragraphe 19 (3) de la Loi est modifié par remplacement de «selon la formule prescrite» par «selon le formulaire approuvé» à la fin du paragraphe.

(3) Le paragraphe 19 (5) de la Loi est abrogé et remplacé par ce qui suit :

Idem

(5) Les avis ou autres documents visés au paragraphe (4) peuvent être envoyés par un moyen de communication téléphonique ou électronique si leur envoi est consigné. Il est entendu que l'envoi d'un avis ou d'un autre document par un moyen de communication téléphonique ou électronique n'exige pas le consentement du destinataire prévu.

102 La version française de l'alinéa 23 (1) a) de la Loi est abrogée et remplacée par ce qui suit :

a) le permis demeure en vigueur et est réputé produit aux termes de la présente loi;

103 (1) L'article 24.1 de la Loi est abrogé et remplacé par ce qui suit :

Règlements et arrêtés du ministre**Règlements**

24.1 (1) Le ministre peut, par règlement :

- a) prescrire ou régir tout ce que la présente loi mentionne comme étant prescrit ou fait par règlement ou conformément aux règlements;
- b) prescrire des catégories de personnes morales extraprovinciales et soustraire une catégorie de personnes morales extraprovinciales à l'application de la totalité ou d'une partie des dispositions de la présente loi, aux conditions prescrites, le cas échéant;
- c) traiter de la teneur, de la forme et du dépôt des demandes et des autres documents et renseignements déposés auprès du directeur ou délivrés par ce dernier, ainsi que de la forme et de l'acquiescement des droits, et régir ces aspects;
- d) traiter de la preuve à apporter lors de la présentation d'une demande de permis dans le cadre de la présente loi, y compris la preuve de la constitution de la personne morale extraprovinciale, de ses pouvoirs, de ses objets ainsi que de sa validité et de son existence juridique;
- e) traiter de la façon de remplir, de présenter et d'accepter les demandes et les autres documents et renseignements déposés auprès du directeur, de l'acquiescement des droits et de l'établissement de la date de réception, et régir ces aspects;
- f) désigner les demandes et les autres documents et renseignements qui doivent être déposés auprès du directeur :
 - (i) sous forme imprimée ou électronique,
 - (ii) sous forme électronique seulement,
 - (iii) sous forme imprimée seulement;
- g) sous réserve des conditions précisées dans le règlement, prescrire et régir les documents et les renseignements qui doivent accompagner les demandes et les autres formulaires approuvés mentionnés à l'article 24.2 et préciser, pour chacune des formes désignées visées à l'alinéa f) :
 - (i) les documents et les renseignements qui doivent être déposés auprès du directeur avec les demandes et les autres formulaires approuvés mentionnés à l'article 24.2,
 - (ii) les documents et les renseignements qui doivent être conservés par la personne morale et qui, à la réception de l'avis écrit du directeur et conformément à cet avis, et sous réserve des conditions qu'il impose, doivent être déposés auprès de lui ou remis à l'autre personne qui y est précisée;
- h) permettre au directeur, sous réserve des conditions qu'il impose, de faire ce qui suit pour chacune des formes désignées visées à l'alinéa f) :

- (i) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa g) (i) soient conservés par la personne morale et, à la réception de l'avis écrit du directeur et conformément à cet avis, soient déposés auprès de lui ou remis à l'autre personne qui y est précisée;
- (ii) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa g) (ii) soient déposés auprès du directeur avec les demandes et les autres formulaires approuvés mentionnés à l'article 24.2;
- (iii) exiger que les documents dont la présente loi exige le dépôt auprès du directeur soient conservés par la personne morale et, à la réception de l'avis écrit du directeur et conformément à cet avis, soient déposés auprès de lui ou remis à l'autre personne qui y est précisée;
- i) régir les conditions que le directeur peut imposer conformément à un règlement pris en vertu du sous-alinéa g) (ii) ou de l'alinéa h);
- j) traiter de la production et de la délivrance de permis et d'autres documents par le directeur, y compris des règles relatives à la production et à la délivrance par des moyens électroniques, et régir ces aspects;
- k) régir l'attribution de numéros de personne morale en vertu de l'article 5;
- l) traiter des noms des personnes morales extraprovinciales ainsi que de leurs catégories;
- m) interdire l'emploi de certains mots ou expressions dans la dénomination sociale;
- n) prescrire les signes de ponctuation et autres signes qui peuvent faire partie du nom d'une personne morale extraprovinciale;
- o) prescrire les conditions et limitations qui peuvent être précisées dans les permis;
- p) traiter de la désignation et du maintien par les personnes morales extraprovinciales d'un mandataire aux fins de signification des brevets, avis ou autres actes de procédure ainsi que des pouvoirs qui lui sont conférés;
- q) régir la conservation et la destruction des demandes et des autres documents et renseignements déposés auprès du directeur, notamment la forme sous laquelle ils doivent être conservés;
- r) prescrire les fonctions et pouvoirs du directeur, outre ceux énoncés dans la présente loi;
- s) désigner les fonctionnaires ou les catégories de fonctionnaires employés aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* chargés de produire des permis et de délivrer des certificats, y compris des attestations de faits, et de certifier conformes des copies de documents exigés ou autorisés par la présente loi;
- t) prévoir qu'une personne ou une entité qui conclut un accord en vertu du paragraphe 3.3 (2) est un mandataire de la Couronne et préciser les services et les fins à l'égard desquels la personne ou l'entité est considérée comme un mandataire de la Couronne;
- u) définir des mots ou expressions employés mais non expressément définis dans la présente loi;
- v) prescrire toute question que le ministre estime nécessaire ou souhaitable pour l'application de la présente loi;
- w) prévoir les questions transitoires que le ministre estime nécessaires ou souhaitables relativement à la mise en application des modifications à la présente loi édictées par l'annexe 6 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*.

Incorporation continue par renvoi

(2) Un règlement pris en vertu du paragraphe (1) qui incorpore un autre document par renvoi peut prévoir que le renvoi au document vise également les modifications qui y sont apportées après la prise du règlement.

Droits

(3) Le ministre peut, par arrêté, exiger l'acquiescement de droits pour les rapports de recherche, les copies de documents ou de renseignements ou les autres services prévus par la présente loi, en approuver le montant et prévoir la renonciation à ces droits ou leur remboursement, en totalité ou en partie.

Non-application de la Loi de 2006 sur la législation

(4) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas à un arrêté pris par le ministre en vertu du paragraphe (3).

(2) L'alinéa 24.1 (1) w) de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

104 L'article 24.2 de la Loi est abrogé et remplacé par ce qui suit :

Formulaires

24.2 (1) Le directeur peut exiger que les formulaires qu'il approuve soient utilisés à toute fin prévue par la présente loi.

Non-application de la *Loi de 2006 sur la législation*

(2) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

Méthodes de production et de délivrance

24.3 Le directeur peut produire les inscriptions à l'égard des demandes et délivrer les certificats, les copies certifiées conformes et les autres documents par tout moyen et peut utiliser ou délivrer des codes de validation ou d'autres systèmes ou méthodes de validation à l'égard de la production et de la délivrance effectuées dans le cadre de la présente loi.

Exigences établies par le directeur

24.4 (1) Le directeur peut établir des exigences qui :

- a) traitent de la teneur, de la forme et du dépôt des demandes et des autres documents et renseignements déposés auprès du directeur ou délivrés par ce dernier, ainsi que de la forme et de l'acquittement des droits, et régissent ces aspects;
- b) traitent de la façon de remplir, de présenter et d'accepter les demandes et les autres documents et renseignements déposés auprès du directeur, de l'acquittement des droits et de l'établissement de la date de réception, et régissent ces aspects;
- c) précisent que les demandes et les autres documents et renseignements ne peuvent être déposés auprès du directeur, et les droits acquittés, que par une personne autorisée par le directeur ou appartenant à une catégorie de personnes autorisées par le directeur;
- d) régissent l'autorisation des personnes visées à l'alinéa c), notamment :
 - (i) en fixant les conditions et exigences auxquelles il faut satisfaire pour devenir une personne autorisée,
 - (ii) en assortissant l'autorisation de conditions, notamment de conditions régissant le dépôt des demandes et des autres documents et renseignements ainsi que l'acquittement des droits,
 - (iii) en exigeant de toute personne qui demande une autorisation qu'elle conclue avec le directeur ou avec la personne qu'il désigne un accord régissant le dépôt des demandes et des autres documents et renseignements;
- e) précisent si les demandes et les autres formulaires approuvés mentionnés à l'article 24.2 et les documents à l'appui doivent être signés et, si oui, lesquels doivent l'être, précisent des exigences ayant trait à leur signature et régissent la forme des signatures, notamment en établissant des règles à l'égard des signatures électroniques;
- f) précisent et régissent les façons de passer les demandes, les autres documents et les autres formulaires approuvés mentionnés à l'article 24.2 et les documents à l'appui autrement qu'en les signant, et établissent des règles à cet égard;
- g) précisent les exigences selon lesquelles les personnes morales qui déposent électroniquement des demandes et d'autres documents et d'autres formulaires approuvés mentionnés à l'article 24.2 doivent conserver à leur siège social une version sous forme imprimée ou électronique de ceux-ci, passés en bonne et due forme et, si un avis du directeur l'exige, fournir à ce dernier une copie de la version passée dans le délai indiqué dans l'avis;
- h) si la présente loi précise les exigences applicables à la signature des demandes et des autres documents déposés auprès du directeur, précisent et régissent des exigences de rechange pour leur signature ou dispensent de toute exigence de signature;
- i) établissent les délais et les circonstances dans lesquels les demandes et les autres documents et renseignements sont considérés comme ayant été envoyés au directeur ou reçus par ce dernier, ainsi que le lieu où ils sont considérés comme l'ayant été;
- j) établissent les normes et les exigences technologiques applicables au dépôt auprès du directeur des demandes et des autres documents et renseignements sous forme électronique et à l'acquittement des droits sous forme électronique;
- k) précisent le type de copie d'une ordonnance du tribunal ou d'un autre document délivré par le tribunal qui peut être déposée auprès du directeur;
- l) traitent de la production et de la délivrance de permis et d'autres documents par le directeur, y compris des règles relatives à la production et à la délivrance par des moyens électroniques, et régissent ces aspects;
- m) régissent l'attribution de numéros de personne morale en vertu de l'article 5;
- n) régissent les recherches et les moyens de recherche dans les dossiers pour l'application du paragraphe 16.1 (4)

Catégories

(2) Pour l'application de l'alinéa (1) c), une catégorie peut être définie :

- a) soit en fonction d'un attribut ou d'une combinaison d'attributs;
- b) soit de façon à être constituée d'un membre donné ou à comprendre ou exclure un tel membre

Non-application de la Loi de 2006 sur la législation

(3) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

Incompatibilité

(4) En cas d'incompatibilité, les règlements pris en vertu de la présente loi l'emportent sur les exigences établies en vertu du présent article.

105 L'article 25 de la Loi est abrogé.

106 Les paragraphes 92 (2), (3) et (4) de l'annexe E de la Loi de 1998 visant à réduire les formalités administratives sont abrogés.

LOI SUR LES SOCIÉTÉS EN COMMANDITE

107 (1) L'article 1 de la Loi sur les sociétés en commandite est modifié par adjonction des définitions suivantes :

«jour» Jour franc. («day»)

«ministre» Le membre du Conseil exécutif à qui la responsabilité de l'application de la présente loi est assignée ou transférée en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

«moyen de communication téléphonique ou électronique» Tout moyen de communication qui fait appel au téléphone ou à tout autre moyen électronique ou technologique pour transmettre des renseignements ou des données — appel ou message téléphonique, télécopie, courrier électronique, système automatisé de téléphone à clavier, ordinateur ou réseau informatique. («telephonic or electronic means»)

«signature électronique» Marquage ou procédé d'identification qui a les caractéristiques suivantes :

- a) il est créé ou communiqué par un moyen de communication téléphonique ou électronique;
- b) il est joint ou associé à un document ou à d'autres renseignements;
- c) il est apporté ou adopté par la personne qui veut s'associer au document ou aux autres renseignements, selon le cas. («electronic signature»)

(2) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Interprétation : période de jours

(2) Pour l'application de la présente loi, une période de jours est réputée commencer le jour qui suit l'événement qui marque le début de la période et prendre fin à minuit le dernier jour de cette période. Toutefois, si le dernier jour de la période tombe un jour férié, la période prend fin à minuit le prochain jour qui n'est pas un jour férié.

108 La Loi est modifiée par adjonction de l'article suivant :

Passation des documents

1.1 Les déclarations ou autres documents qui doivent ou peuvent être passés par plusieurs personnes pour l'application de la présente loi peuvent être passés en plusieurs documents de même forme, dont chacun est passé par une ou plusieurs personnes. Ces documents, lorsqu'ils sont dûment passés par toutes les personnes qui doivent ou peuvent les passer, selon le cas, sont réputés constituer un seul document pour l'application de la présente loi.

109 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

Constitution de la société en commandite

3 (1) La société en commandite est constituée dès qu'est accepté le dépôt d'une déclaration auprès du registraire conformément à la présente loi et aux règlements et aux exigences du registraire qui s'appliquent.

Déclaration

(2) Sauf disposition contraire de la présente loi, des règlements ou des exigences du registraire, la déclaration est signée par tous les commandités qui désirent constituer une société en commandite et contient les renseignements prescrits ainsi que tout renseignement exigé par le registraire en vertu de l'article 36.

Expiration de la déclaration

(3) La déclaration déposée conformément au paragraphe (1), y compris une déclaration déposée par une société en commandite extraprovinciale, est valide pendant une période de cinq ans à compter de la date où son dépôt est accepté ou de la date prescrite, à moins qu'elle ne soit annulée par le dépôt d'une déclaration de dissolution ou remplacée par le dépôt, avant sa date d'expiration, d'un renouvellement de la déclaration.

Dépôt subséquent

(4) L'expiration d'une déclaration n'a pas pour effet de dissoudre la société en commandite, mais des frais supplémentaires du montant exigé doivent être acquittés pour le dépôt subséquent d'un renouvellement de la déclaration.

110 La Loi est modifiée par adjonction de l'article suivant :**Impossibilité de recevoir des dépôts dans le système électronique**

4.1 (1) Malgré tout règlement pris en vertu de l'alinéa 35.1 (1) d), s'il est d'avis que, pour une raison quelconque, il est impossible de recevoir des déclarations et d'autres documents et renseignements sous forme électronique dans un système électronique tenu en application de l'article 9 de la *Loi sur les noms commerciaux*, le registraire peut exiger qu'ils soient déposés sous forme imprimée seulement, conformément aux exigences éventuelles du registraire, ou sous une autre forme électronique qu'il approuve.

Idem — Conservation des dépôts et des demandes jusqu'à ce que le système soit en service

(2) S'il est d'avis que, pour une raison quelconque, il est impossible de délivrer des déclarations au moyen d'un système électronique tenu en application de l'article 9 de la *Loi sur les noms commerciaux*, le registraire peut conserver les déclarations et les autres documents et renseignements qui ont été déposés jusqu'à ce qu'il puisse les délivrer conformément à la présente loi, aux règlements et aux exigences éventuelles du registraire.

Idem — Recherches

(3) S'il est d'avis que, pour une raison quelconque, il est impossible d'effectuer des recherches dans un système électronique tenu en application de l'article 9 de la *Loi sur les noms commerciaux*, le registraire peut conserver les demandes de recherches qui ont été déposées jusqu'à ce que les recherches puissent être effectuées.

111 (1) Les paragraphes 6 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :**Restriction concernant la raison sociale**

(1) Ni le nom au complet ou le nom de famille d'un commanditaire ni un élément distinctif de sa dénomination sociale ne doit figurer dans la raison sociale de la société en commandite, à moins que ce ne soit également le nom au complet ou le nom de famille ou un élément distinctif de la dénomination sociale de l'un des commandités, selon le cas.

Responsabilité du commanditaire

(2) Si le nom au complet ou le nom de famille d'un commanditaire ou un élément distinctif de sa dénomination sociale figure dans la raison sociale, contrairement au paragraphe (1), ce commanditaire est responsable, au même titre qu'un commandité, envers tout créancier qui a fait crédit à la société en commandite sans savoir que cette personne n'était pas un commandité.

(2) L'article 6 de la Loi est modifié par adjonction des paragraphes suivants :**Langue de la raison sociale**

(4) La raison sociale d'une société en commandite peut être :

- a) anglaise seulement;
- b) française seulement;
- c) dans les deux langues, l'anglais et le français étant utilisés ensemble;
- d) dans les deux langues, l'anglais et le français étant équivalents mais utilisés séparément.

Idem

(5) La société en commandite dont la raison sociale correspond à la forme visée à l'alinéa (4) d) peut être légalement désignée par la version anglaise ou française de sa raison sociale.

Lettres ou chiffres autorisés

(6) Peuvent seuls faire partie de la raison sociale de la société en commandite les lettres en caractères romains ou les chiffres arabes, ou une combinaison des deux, ainsi que les signes de ponctuation et autres signes prescrits.

112 La Loi est modifiée par adjonction de l'article suivant :**Raison sociale et dépôt de la déclaration**

6.1 (1) Le registraire peut refuser d'accepter la déclaration visée au paragraphe 3 (1), 19 (1) ou 25 (1) ou (7) si la raison sociale de la société en commandite n'est pas conforme à la présente loi ou aux exigences prescrites.

Déclaration de changement exigée

(2) Si le registraire accepte le dépôt de la déclaration d'une société en commandite qui n'est pas une société en commandite extraprovinciale et que figure dans la déclaration une raison sociale qui n'est pas conforme à la présente loi ou aux exigences prescrites, le registraire peut donner à la société en commandite un avis exigeant que celle-ci dépose, dans le délai précisé

dans l'avis, la déclaration de changement prévue au paragraphe 19 (2) dans laquelle figure une raison sociale conforme à la présente loi et aux exigences prescrites.

Idem : société en commandite extraprovinciale

(3) Si le registrateur accepte le dépôt de la déclaration d'une société en commandite extraprovinciale et que figure dans la déclaration une raison sociale qui n'est pas conforme à la présente loi ou aux exigences prescrites, le registrateur peut donner à la société en commandite un avis exigeant que celle-ci dépose, dans le délai précisé dans l'avis :

- a) soit la déclaration de changement prévue au paragraphe 25 (7) dans laquelle figure une raison sociale conforme à la présente loi et aux exigences prescrites;
- b) soit la déclaration de retrait prévue au paragraphe 25 (8).

Délivrance d'une déclaration de changement par le registrateur

(4) Si la société en commandite qui n'est pas une société en commandite extraprovinciale ne dépose pas de déclaration de changement conformément au paragraphe (2), le registrateur peut, sous réserve des paragraphes (6), (7) et (8), délivrer une déclaration de changement changeant la raison sociale de la société pour celle précisée dans la déclaration.

Annulation de la déclaration d'une société en commandite extraprovinciale

(5) Si une société en commandite extraprovinciale ne dépose pas de déclaration de changement ou de déclaration de retrait conformément au paragraphe (3), le registrateur peut, sous réserve des paragraphes (6), (7) et (8), annuler la déclaration visée au paragraphe (1).

Avis

(6) Avant de délivrer une déclaration changeant la raison sociale en vertu du paragraphe (4) ou annulant une déclaration en vertu du paragraphe (5), le registrateur donne à la société en commandite un préavis de 21 jours de son intention de le faire.

Appel

(7) La société en commandite qui reçoit le préavis visé au paragraphe (6) peut interjeter appel devant la Cour divisionnaire dans les 21 jours qui suivent la réception du préavis.

Idem

(8) Si le préavis visé au paragraphe (6) fait l'objet d'un appel, le registrateur ne doit pas délivrer de déclaration en vertu du paragraphe (4) ou annuler une déclaration en vertu du paragraphe (5), selon le cas, tant qu'une décision définitive confirmant la sienne n'a pas été rendue.

113 (1) Les paragraphes 19 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :

Déclaration de changement

(1) S'il survient un changement à l'égard de l'un des renseignements figurant dans la déclaration visée au paragraphe 3 (1), y compris un changement de raison sociale de la société en commandite, une déclaration de changement est déposée auprès du registrateur.

Exception

(2) Malgré le paragraphe (1), une déclaration de changement ne doit pas être déposée s'il survient un changement à l'égard de l'un des renseignements concernant un commandité qui est une personne morale si, à la fois :

- a) le changement a déjà été apporté conformément à la présente loi ou à une autre loi;
- b) le registrateur a consigné le changement dans les dossiers tenus en application du paragraphe 1.1 (3) de la *Loi sur les noms commerciaux* et délivré une déclaration de changement indiquant le changement.

Idem

(2.1) Malgré le paragraphe (1), une déclaration de changement ne doit pas être déposée s'il survient un changement à l'égard de l'un des renseignements concernant un commandité qui n'est pas une personne morale si, à la fois :

- a) le commandité s'est déjà vu attribuer un numéro d'identité de l'entreprise pour l'application de la *Loi sur les noms commerciaux*;
- b) le changement a déjà été déposé par le commandité en application de cette loi;
- c) le registrateur a consigné le changement dans les dossiers tenus en application du paragraphe 1.1 (3) de cette loi et délivré une déclaration de changement indiquant le changement.

(2) Le paragraphe 19 (3) de la Loi est modifié par insertion de «Sauf disposition contraire de la présente loi, des règlements ou des exigences du registrateur,» au début du paragraphe.

(3) Les dispositions suivantes de l'article 19 de la Loi sont modifiées par remplacement de «paragraphe (2)» par «paragraphe (1)» partout où figure cette expression :

1. Le paragraphe (4).**2. Le paragraphe (6).**

114 Le paragraphe 23 (2) de la Loi est modifié par insertion de «Sauf disposition contraire de la présente loi, des règlements ou des exigences du registrateur.» au début du paragraphe.

115 Le paragraphe 23.1 (2) de la Loi est abrogé et remplacé par ce qui suit :

Idem

(2) Les avis ou autres documents visés au paragraphe (1) peuvent être envoyés par un moyen de communication téléphonique ou électronique si leur envoi est consigné. Il est entendu que l'envoi d'un avis ou d'un autre document par un moyen de communication téléphonique ou électronique n'exige pas le consentement du destinataire prévu.

116 L'article 23.2 de la Loi est abrogé et remplacé par ce qui suit :

Documents mis à la disposition du public

23.2 Le registrateur peut mettre ce qui suit à la disposition du public, notamment en les publiant :

- a) les avis ou les autres documents envoyés par le registrateur en application de la présente loi;
- b) les documents dont la présente loi, les règlements ou le registrateur exigent l'envoi au registrateur en application de la présente loi.

Annulation de la déclaration

23.3 Le registrateur peut annuler une déclaration déposée en application du paragraphe 3 (1) ou 25 (1) si la société en commandite reçoit un préavis de 21 jours de son intention d'annuler :

- a) soit pour non-acquittement des droits exigés;
- b) soit pour non-respect des exigences en matière de signature des déclarations déposées auprès du registrateur en application de la présente loi.

Erreur dans la déclaration

23.4 (1) En cas d'erreur dans une déclaration déposée en application de la présente loi :

- a) la société en commandite peut déposer auprès du registrateur une demande de déclaration rectifiée et, à la demande de ce dernier et dans le délai qu'il précise, elle doit lui remettre la déclaration ainsi que tout document auquel elle se rapporte;
- b) le registrateur peut aviser la société en commandite qu'une déclaration rectifiée pourrait être exigée et la société doit, à la demande du registrateur et dans le délai qu'il précise, lui remettre la déclaration ainsi que tout document auquel elle se rapporte.

Délivrance de la déclaration rectifiée par le registrateur

(2) Après avoir donné à la société en commandite l'occasion d'être entendue à l'égard d'une erreur visée au paragraphe (1), le registrateur délivre une déclaration rectifiée s'il l'estime indiquée et qu'il est convaincu que la société en commandite ou les commandités ont pris les mesures qu'il a exigées.

Signature de la déclaration rectifiée

(3) Sauf disposition contraire de la présente loi, des règlements ou des exigences du registrateur, la demande de déclaration rectifiée déposée en vertu du présent article est signée par tous les commandités.

Date de la déclaration rectifiée

(4) La déclaration rectifiée délivrée aux termes du paragraphe (2) peut porter la date de celle qu'elle remplace

Idem

(5) Si une rectification a été faite à l'égard de la date de la déclaration, la déclaration rectifiée doit porter la date rectifiée

Appel

(6) Les décisions prises par le registrateur aux termes du paragraphe (2) sont susceptibles d'appel devant la Cour divisionnaire. Celle-ci peut ordonner au registrateur de modifier sa décision et rendre toute autre ordonnance qu'elle estime indiquée.

117 (1) Le paragraphe 25 (3) de la Loi est modifié par insertion de «Sauf disposition contraire de la présente loi, des règlements ou des exigences du registrateur» au début du paragraphe.

(2) La version française du paragraphe 25 (4) de la Loi est abrogée et remplacée par ce qui suit :

Procuration

(4) La société en commandite extraprovinciale passe une procuration, rédigée selon le formulaire prescrit, dans laquelle une personne résidant en Ontario ou une personne morale ayant son siège social en Ontario est nommée procureur et représentant de la société en commandite extraprovinciale en Ontario.

(3) Le paragraphe 25 (5) de la Loi est modifié par remplacement de «à son adresse figurant dans la déclaration déposée aux termes du paragraphe (1)» par «à l'adresse du procureur et représentant figurant dans la déclaration déposée aux termes du paragraphe (1)» à la fin du paragraphe.

(4) L'article 25 de la Loi est modifié par adjonction des paragraphes suivants :

Idem

(6.0.1) Le registraire peut en tout temps, au moyen d'un avis écrit, exiger d'un commandité ou du procureur et représentant de la société en commandite qu'il fournisse au registraire ou à une autre personne une copie de la procuration.

Idem

(6.0.2) Dès qu'il reçoit l'avis du registraire, le commandité, ou le procureur et représentant de la société en commandite à qui l'avis est adressé, fournit, dans le délai qui y est précisé, une copie de la procuration au registraire ou à toute autre personne précisée dans l'avis.

(5) Le paragraphe 25 (6.1) de la Loi est abrogé.

(6) Le paragraphe 25 (7) de la Loi est modifié par remplacement de «autre qu'un changement de raison sociale» par «y compris un changement de raison sociale».

(7) Le paragraphe 25 (8) de la Loi est abrogé et remplacé par ce qui suit :

Déclaration de retrait

(8) La société en commandite extraprovinciale peut annuler sa déclaration et sa procuration en déposant auprès du registraire une déclaration de retrait.

Signature

(9) Sauf disposition contraire de la présente loi, des règlements ou des exigences du registraire, la déclaration déposée en vertu du paragraphe (8) est signée par au moins un des commandités.

118 Le paragraphe 26 (3) de la Loi est modifié par remplacement de «à l'adresse figurant dans la procuration déposée aux termes du paragraphe 25 (4)» par «à l'adresse du procureur et représentant figurant dans la déclaration déposée aux termes du paragraphe 25 (1) et dans la procuration passée en application du paragraphe 25 (4)» à la fin du paragraphe.

119 Le paragraphe 27 (1) de la Loi est modifié par remplacement de «sans avoir déposé la déclaration et la procuration exigées par la présente loi» par «sans avoir déposé la déclaration ou passé la procuration comme l'exige la présente loi» à la fin du paragraphe.

120 Les paragraphes 28 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :

Pouvoir d'ester en justice

(1) Si une société en commandite extraprovinciale a laissé des droits ou des pénalités en souffrance, ou qu'aucune déclaration la concernant n'a été déposée ou aucune procuration passée comme l'exige la présente loi, ni cette société ni ses membres ne peuvent engager une instance devant un tribunal de l'Ontario relativement à l'entreprise de la société en commandite extraprovinciale sans l'autorisation du tribunal.

Idem

(2) Le tribunal accorde son autorisation s'il est convaincu de ce qui suit :

- a) le non-acquittement des droits ou des pénalités, le non-dépôt de la déclaration ou la non-passation de la procuration s'est produit par inadvertance;
- b) aucune preuve n'existe que le public ait été trompé ou induit en erreur;
- c) au moment de la présentation de la requête au tribunal, la société en commandite extraprovinciale n'a laissé ni droits ni pénalités en souffrance et a déposé toutes les déclarations et passé toutes les procurations exigées par la présente loi.

121 L'alinéa 29 a) de la Loi est abrogé et remplacé par ce qui suit :

- a) tout commandité qui savait que l'affirmation était fausse ou trompeuse :
 - (i) soit au moment de signer la déclaration,
 - (ii) soit au moment d'autoriser d'une autre façon la déclaration conformément aux exigences établies par le registraire en vertu du paragraphe 36 (1);

122 La Loi est modifiée par adjonction de l'article suivant :**Dépôt sous forme électronique**

32.1 (1) Malgré les articles 3, 19, 23, 25 et 32, si une déclaration ou un document prescrit est déposé auprès du registraire sous une forme électronique prescrite par le ministre ou exigée par le registraire, la déclaration ou le document prescrit doit satisfaire aux exigences en matière de signature ou d'autorisation établies par le registraire en vertu du paragraphe 36 (1).

Dépôt par télécopie

(2) Malgré tout règlement pris en vertu de l'article 35.1, les déclarations et les autres documents ne peuvent être déposés par télécopie qu'avec le consentement du registraire.

Primauté de la version électronique

(3) Si une déclaration ou un document prescrit visé au paragraphe (1) est déposé sous forme électronique, en cas d'incompatibilité, la version électronique de la déclaration ou du document prescrit qui est enregistrée dans un système électronique tenu en application de l'article 9 de la *Loi sur les noms commerciaux*, ou l'imprimé de la version électronique, l'emporte sur toute autre version existante de la déclaration ou du document prescrit, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du registraire.

123 (1) L'alinéa 33 (1) e) de la Loi est modifié par remplacement de «déposée auprès du registraire» par «exigée par le paragraphe 25 (4)» à la fin de l'alinéa.

(2) Le paragraphe 33 (2) de la Loi est modifié par remplacement de «à l'adresse indiquée dans la procuration déposée aux termes du paragraphe 25 (4)» par «à l'adresse du procureur et représentant figurant dans la déclaration déposée aux termes du paragraphe 25 (1) et dans la procuration passée en application du paragraphe 25 (4)» à la fin du paragraphe.

124 Le paragraphe 34 (2) de la Loi est abrogé et remplacé par ce qui suit :

Requête en vue d'obtenir une ordonnance

(2) La personne qui se sent lésée par le refus d'une personne de signer un document, de l'autoriser d'une autre façon conformément aux exigences établies en vertu du paragraphe 36 (1) ou d'en permettre l'inspection alors qu'elle y est tenue par la présente loi peut, par voie de requête, demander à la Cour d'ordonner à cette personne de se conformer aux dispositions de la présente loi. À la suite de cette requête, la Cour peut rendre l'ordonnance qu'elle juge appropriée dans les circonstances.

125 La Loi est modifiée par adjonction de l'article suivant :

Accords avec des personnes autorisées

35.0.1 (1) La définition qui suit s'applique au présent article.

«services de dépôt pour les entreprises» S'entend notamment des fonctions et pouvoirs du registraire et des services connexes.

Accords pour la fourniture de services de dépôt pour les entreprises

(2) Le ministre ou une personne qu'il désigne peut, au nom de la Couronne du chef de l'Ontario, conclure un ou plusieurs accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du registraire ou d'un autre représentant du gouvernement.

Pas un mandataire de la Couronne

(3) Sauf disposition contraire d'un règlement, la personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises n'est à aucune fin un mandataire de la Couronne, malgré la *Loi sur les organismes de la Couronne*.

Utilisation des dossiers et renseignements

(4) L'accord conclu en vertu du paragraphe (2) peut aussi comprendre des dispositions concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Aucune incidence de l'accord sur le pouvoir discrétionnaire de déléguer

(5) L'accord conclu en vertu du paragraphe (2) n'a pas d'incidence sur le pouvoir qu'a le registraire de déléguer des fonctions ou pouvoirs en vertu du paragraphe 1.1 (2) de la *Loi sur les noms commerciaux*.

Aucun pouvoir de renoncer aux droits relatifs aux services ou de les rembourser

(6) La personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises ne peut pas renoncer à l'acquiescement des droits pour un tel service qui sont payables à la province de l'Ontario, ni les rembourser, que ce soit en totalité ou en partie. Elle peut toutefois acquitter tout ou partie des droits pour le compte de la personne ou de l'entité à qui le service a été fourni.

Date présumée de réception par le registrateur

(7) Les déclarations et les autres documents et renseignements envoyés à une personne ou à une entité qui a conclu un accord en vertu du paragraphe (2) l'autorisant à les recevoir au nom du registrateur sont réputés avoir été reçus par le registrateur à la date à laquelle la personne ou l'entité autorisée les a reçus.

Accords visant l'utilisation des dossiers et renseignements

(8) Le ministre, le registrateur ou une personne désignée par l'un ou l'autre peut conclure avec toute personne ou entité un accord concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

126 (1) Les articles 35.1 et 35.2 de la Loi sont abrogés et remplacés par ce qui suit :

Règlements et arrêtés du ministre**Règlements**

35.1 (1) Le ministre peut, par règlement :

- a) prescrire ou régir tout ce que la présente loi mentionne comme étant prescrit ou fait par règlement ou conformément aux règlements;
- b) traiter de la teneur, de la forme et du dépôt des déclarations et des autres documents et renseignements déposés auprès du registrateur ou délivrés par ce dernier, ainsi que de la forme et de l'acquiescement des droits, et régir ces aspects;
- c) traiter de la façon de rédiger, de présenter et d'accepter les déclarations et les autres documents et renseignements déposés auprès du registrateur, de l'acquiescement des droits et de l'établissement de la date de réception, et régir ces aspects;
- d) désigner les déclarations et les autres documents et renseignements qui doivent être déposés auprès du registrateur :
 - (i) sous forme imprimée ou électronique,
 - (ii) sous forme électronique seulement,
 - (iii) sous forme imprimée seulement;
- e) sous réserve des conditions précisées dans le règlement, prescrire et régir les documents et les renseignements qui doivent accompagner les déclarations et les autres formulaires approuvés mentionnés à l'article 35.3 et préciser, pour chacune des formes désignées visées à l'alinéa d) :
 - (i) les documents et les renseignements qui doivent être déposés auprès du registrateur avec les déclarations et les autres formulaires approuvés mentionnés à l'article 35.3,
 - (ii) les documents et les renseignements qui doivent être conservés par la société en commandite ou une autre personne et qui, à la réception de l'avis écrit du registrateur et conformément à cet avis, et sous réserve des conditions qu'il impose, doivent être déposés auprès de lui ou remis à l'autre personne qui y est précisée;
- f) permettre au registrateur, sous réserve des conditions qu'il impose, de faire ce qui suit pour chacune des formes désignées visées à l'alinéa d) :
 - (i) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa e) (i) soient conservés par la société en commandite ou une autre personne et, à la réception de l'avis écrit du registrateur et conformément à cet avis, soient déposés auprès de lui ou remis à l'autre personne qui y est précisée,
 - (ii) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa e) (ii) soient déposés auprès du registrateur avec les déclarations et les autres formulaires approuvés mentionnés à l'article 35.3;
- g) régir les conditions que le registrateur peut imposer conformément à un règlement pris en vertu du sous-alinéa e) (ii) ou de l'alinéa f);
- h) traiter de la délivrance de déclarations et d'autres documents par le registrateur, y compris des règles relatives à la délivrance par des moyens électroniques, et régir ces aspects;
- i) régir l'attribution de numéros de personne morale en vertu de l'article 1.1 de la *Loi sur les noms commerciaux* pour l'application de la présente loi;
- j) prescrire et interdire l'emploi de certains termes connotatifs ou suggestifs, de mots ou d'expressions dans la raison sociale qui figure dans la déclaration;
- k) prescrire les signes de ponctuation et autres signes qui peuvent faire partie de la raison sociale qui figure dans la déclaration;
- l) régir la conservation et la destruction des déclarations et des autres documents et renseignements déposés auprès du registrateur, notamment la forme sous laquelle ils doivent être conservés;

- m) prescrire les fonctions et pouvoirs du registrateur dans le cadre de la présente loi, outre ceux qui y sont énoncés;
- n) prévoir qu'une personne ou une entité qui conclut un accord en vertu du paragraphe 35.0.1 (2) est un mandataire de la Couronne et préciser les services et les fins à l'égard desquels la personne ou l'entité est considérée comme un mandataire de la Couronne;
- o) définir des mots ou expressions employés mais non expressément définis dans la présente loi;
- p) prescrire toute question que le ministre estime nécessaire ou souhaitable pour l'application de la présente loi;
- q) prévoir les questions transitoires que le ministre estime nécessaires ou souhaitables relativement à la mise en application des modifications à la présente loi édictées par l'annexe 6 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*.

Incorporation continue par renvoi

(2) Un règlement pris en vertu du paragraphe (1) qui incorpore un autre document par renvoi peut prévoir que le renvoi au document vise également les modifications qui y sont apportées après la prise du règlement.

Droits

(3) Le ministre peut, par arrêté, exiger l'acquiescement de droits pour les rapports de recherche, les copies de documents ou de renseignements, le dépôt de documents ou les autres services prévus par la présente loi, en approuver le montant et prévoir la renonciation à ces droits ou leur remboursement, en totalité ou en partie.

Non-application de la Loi de 2006 sur la législation

(4) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux arrêtés pris par le ministre en vertu du paragraphe (3).

Copie d'avis ou d'autre document acceptée

35.2 (1) Lorsque la présente loi exige l'envoi au registrateur d'un avis ou d'un autre document, le registrateur peut en accepter une copie, y compris une copie électronique.

Exception

(2) Sauf disposition contraire des règlements, le paragraphe (1) ne s'applique pas aux déclarations déposées sous forme imprimée.

Formulaires

35.3 (1) Sous réserve du paragraphe (3), le registrateur peut exiger que les formulaires qu'il approuve soient utilisés à toute fin prévue par la présente loi.

Non-application de la Loi de 2006 sur la législation

(2) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas à l'exigence établie par le registrateur en vertu du paragraphe (1).

Règlement prescrivant le formulaire de procuration

(3) Le registrateur peut, par règlement, prescrire le formulaire employé pour la procuration visée au paragraphe 25 (4).

Idem

(4) Un règlement pris en vertu du paragraphe (3) peut incorporer par renvoi un formulaire de procuration dans ses versions successives.

(2) L'alinéa 35.1 (1) q) de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

127 L'article 36 de la Loi est abrogé et remplacé par ce qui suit :

Exigences établies par le registrateur

36 (1) Le registrateur peut établir des exigences qui :

- a) traitent de la teneur, de la forme et du dépôt des déclarations et des autres documents et renseignements déposés auprès du registrateur ou délivrés par ce dernier, ainsi que de la forme et de l'acquiescement des droits, et régissent ces aspects;
- b) traitent de la façon de rédiger, de présenter et d'accepter les déclarations et les autres documents et renseignements déposés auprès du registrateur, de l'acquiescement des droits et de l'établissement de la date de réception, et régissent ces aspects;
- c) précisent que les déclarations et les autres documents et renseignements ne peuvent être déposés auprès du registrateur et les droits acquiescés, que par une personne autorisée par le registrateur ou appartenant à une catégorie de personnes autorisées par le registrateur;
- d) régissent l'autorisation des personnes visées à l'alinéa c), notamment :

- (i) en fixant les conditions et exigences auxquelles il faut satisfaire pour devenir une personne autorisée.
- (ii) en assortissant l'autorisation de conditions, notamment de conditions régissant le dépôt des déclarations et des autres documents et renseignements ainsi que l'acquiescement des droits.
- (iii) en exigeant de toute personne qui demande une autorisation qu'elle conclue avec le registraire ou avec la personne qu'il désigne un accord régissant le dépôt des déclarations et des autres documents et renseignements;
- e) précisent si les déclarations et les autres formulaires approuvés mentionnés à l'article 35.3 et les documents à l'appui doivent être signés et, si oui, lesquels doivent l'être, précisent des exigences ayant trait à leur signature et régissent la forme des signatures, notamment en établissant des règles à l'égard des signatures électroniques;
- f) précisent et régissent les façons de passer les déclarations et les autres formulaires approuvés mentionnés à l'article 35.3 et les documents à l'appui autrement qu'en les signant, et établissent des règles à cet égard;
- g) précisent les exigences selon lesquelles les sociétés en commandite ou les autres personnes qui déposent électroniquement des déclarations et d'autres formulaires approuvés mentionnés à l'article 35.3 :
 - (i) d'une part, doivent conserver une version sous forme imprimée ou électronique de ceux-ci, passés en bonne et due forme :
 - (A) soit à l'établissement principal de la société en commandite en Ontario,
 - (B) soit à l'adresse du procureur et représentant de la société en commandite figurant dans la déclaration déposée en application du paragraphe 25 (1) et dans la procuration passée en application du paragraphe 25 (4), si la société en commandite est une société en commandite extraprovinciale qui n'a pas d'établissement principal en Ontario.
 - (ii) d'autre part, doivent fournir au registraire, si un avis de ce dernier l'exige, une copie de la version passée dans le délai indiqué dans l'avis;
- h) si la présente loi précise les exigences applicables à la signature des déclarations ou des autres documents déposés auprès du registraire, précisent et régissent des exigences de rechange pour leur signature ou dispensent de toute exigence de signature;
- i) établissent les délais et les circonstances dans lesquels les déclarations et les autres documents et renseignements sont considérés comme ayant été envoyés au registraire ou reçus par ce dernier, ainsi que le lieu où ils sont considérés comme l'ayant été;
- j) établissent les normes et les exigences technologiques applicables au dépôt auprès du registraire des déclarations et des autres documents et renseignements sous forme électronique et à l'acquiescement des droits sous forme électronique;
- k) précisent le type de copie d'une ordonnance du tribunal ou d'un autre document délivré par un tribunal qui peut être déposée auprès du registraire;
- l) traitent de la délivrance de déclarations et d'autres documents par le registraire, y compris des règles relatives à la délivrance par des moyens électroniques, et régissent ces aspects;
- m) régissent l'attribution de numéros de personne morale en vertu de l'article 1.1 de la *Loi sur les noms commerciaux* pour l'application de la présente loi;
- n) régissent les recherches et les moyens de recherche dans les dossiers tenus par le registraire pour l'application de la présente loi, conformément au paragraphe 1.1 (4) de la *Loi sur les noms commerciaux*.

Catégories

(2) Pour l'application de l'alinéa (1) c), une catégorie peut être définie :

- a) soit en fonction d'un attribut ou d'une combinaison d'attributs;
- b) soit de façon à être constituée d'un membre donné ou à comprendre ou exclure un tel membre.

Non-application de la Loi de 2006 sur la législation

(3) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le registraire en vertu du paragraphe (1).

Incompatibilité

(4) En cas d'incompatibilité, les règlements pris en vertu de la présente loi l'emportent sur les exigences établies en vertu du présent article.

128 Les paragraphes 165 (2) et (3) de l'annexe E de la Loi de 1998 visant à réduire les formalités administratives sont abrogés.

ENTRÉE EN VIGUEUR

Entrée en vigueur

129 (1) Sous réserve des paragraphes (2) à (4), la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) Le paragraphe 1 (3), l'article 2, le paragraphe 5 (1), les articles 7, 8, 9, 10 et 16, les paragraphes 19 (2) et (3) et 20 (2), l'article 32, les paragraphes 35 (2) et 41 (3), les articles 60 à 65, 87, 94, 95, 98, 102 et 106, le paragraphe 117 (2) et l'article 128 entrent en vigueur le jour où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.

(3) Le paragraphe 18 (2) entre en vigueur au 25^e anniversaire du jour de l'entrée en vigueur du paragraphe 3 (1) de l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*.

(4) Les paragraphes 40 (2), 57 (2), 84 (2), 103 (2) et 126 (2) entrent en vigueur au troisième anniversaire du jour où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.

ANNEXE 7

MINISTÈRE DES SERVICES GOUVERNEMENTAUX ET DES SERVICES AUX CONSOMMATEURS —
LOI SUR LES PERSONNES MORALES ET MODIFICATIONS CONNEXES

LOI SUR LES PERSONNES MORALES

1 (1) L'article 1 de la Loi sur les personnes morales est modifié par adjonction des définitions suivantes :

«directeur» Le directeur nommé en vertu de l'article 278 de la *Loi sur les sociétés par actions*. («Director»)

«jour» Jour franc. («day»)

«signature électronique» Marquage ou procédé d'identification qui a les caractéristiques suivantes :

- a) il est créé ou communiqué par un moyen de communication téléphonique ou électronique;
- b) il est joint ou associé à un document ou à d'autres renseignements;
- c) il est apporté ou adopté par la personne qui veut s'associer au document ou aux autres renseignements, selon le cas («electronic signature»)

(2) La définition de «ministre» à l'article 1 de la Loi est abrogée et remplacée par ce qui suit :

«ministre» Le membre du Conseil exécutif à qui la responsabilité de l'application de la présente loi est assignée ou transférée en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

(3) L'article 1 de la Loi est modifié par adjonction des définitions suivantes :

«compagnie à caractère social» Compagnie dont les objets sont entièrement ou partiellement de nature sociale. («social company»)

«moyen de communication téléphonique ou électronique» Tout moyen de communication qui fait appel au téléphone ou à tout autre moyen électronique ou technologique pour transmettre des renseignements ou des données : appel ou message téléphonique, télécopie, courrier électronique, système automatisé de téléphone à clavier, ordinateur ou réseau informatique. («telephonic or electronic means»)

(4) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :**Interprétation : période de jours**

(2) Pour l'application de la présente loi, une période de jours est réputée commencer le jour qui suit l'événement qui marque le début de la période et prendre fin à minuit le dernier jour de cette période. Toutefois, si le dernier jour de la période tombe un jour férié, la période prend fin à minuit le prochain jour qui n'est pas un jour férié.

2 La Loi est modifiée par adjonction de l'article suivant :**Passation des documents**

1.1 Les lettres patentes, avis, résolutions, demandes, déclarations ou autres documents qui doivent ou peuvent être passés par plusieurs personnes pour l'application de la présente loi peuvent être passés en plusieurs documents de même forme, dont chacun est passé par une ou plusieurs personnes. Ces documents, lorsqu'ils sont dûment passés par toutes les personnes qui doivent ou peuvent les passer, selon le cas, sont réputés constituer un seul document pour l'application de la présente loi.

3 (1) L'article 2 de la Loi est abrogé et remplacé par ce qui suit :**Application de la Loi****2 (1) Sauf disposition expresse contraire, la présente loi s'applique :**

- a) aux compagnies à caractère social qui ont été constituées :
 - (i) par une loi générale ou spéciale du Parlement de l'ancienne province du Haut-Canada ou en vertu d'une telle loi;
 - (ii) par une loi générale ou spéciale du Parlement de l'ancienne province du Canada ou en vertu d'une telle loi, si elles ont leur siège social et exercent des activités en Ontario, et si les objets pour lesquels elles ont été constituées relèvent de la Législature;
 - (iii) par une loi générale ou spéciale de la Législature ou en vertu d'une telle loi;
- b) aux personnes morales qui sont des assureurs au sens du paragraphe 141 (1).

Non-application de la Loi**(2) La présente loi ne s'applique pas :**

- a) aux personnes morales auxquelles s'applique la *Loi sur les sociétés par actions*, la *Loi sur les sociétés coopératives* ou la *Loi de 2010 sur les organisations sans but lucratif*;

- b) aux personnes morales constituées pour la construction et l'exploitation de chemins de fer, de funiculaires ou de tramways.

(2) L'alinéa 2 (1) a) de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé et remplacé par ce qui suit :

- a) aux compagnies à caractère social qui ont été constituées :

- (i) par une loi spéciale du Parlement de l'ancienne province du Haut-Canada ou en vertu d'une telle loi.
- (ii) par une loi spéciale du Parlement de l'ancienne province du Canada ou en vertu d'une telle loi, si elles ont leur siège social et exercent des activités en Ontario, et si les objets pour lesquels elles ont été constituées relèvent de la Législature.
- (iii) par une loi spéciale de la Législature ou en vertu d'une telle loi.

4 (1) La Loi est modifiée par adjonction de l'article suivant avant la partie I :

Maintien des compagnies à caractère social

2.1 (1) Au plus tard au cinquième anniversaire du jour de l'entrée en vigueur du paragraphe 4 (1) de l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*, la compagnie à caractère social qui a été constituée ou maintenue en vertu de la présente loi présente, conformément à une résolution spéciale, une demande en vue de son maintien :

- a) soit à titre de personne morale sans capital-actions en vertu de la *Loi de 2010 sur les organisations sans but lucratif*;
- b) soit à titre de société coopérative en vertu de la *Loi sur les sociétés coopératives*;
- c) soit à titre de personne morale avec capital-actions en vertu de la *Loi sur les sociétés par actions*.

Dissolution de la compagnie qui n'est pas maintenue

(2) La compagnie dont le paragraphe (1) exige le maintien en vertu d'une autre loi et qui n'est pas maintenue au plus tard au cinquième anniversaire mentionné à ce paragraphe est dissoute le lendemain de cet anniversaire.

Réserve : demande de maintien

(3) Si la compagnie à caractère social qui a été constituée ou maintenue en vertu de la présente loi a été dissoute en vertu du paragraphe 317 (9), ou d'une disposition qu'il remplace, avant le jour de l'entrée en vigueur du paragraphe 4 (1) mentionné au paragraphe (1), ce jour même ou par la suite, ou a été dissoute en application du paragraphe (2), elle est réputée continuer à exister uniquement à l'une ou l'autre des fins suivantes :

1. La tenue d'une assemblée des actionnaires afin d'adopter une résolution spéciale pour autoriser le dépôt de statuts de maintien en vertu d'une des lois mentionnées au paragraphe (1).
2. La présentation d'une requête au tribunal en vertu du paragraphe (7).
3. Le dépôt de statuts de maintien en vertu d'une des lois mentionnées au paragraphe (1), au plus tard 20 ans après la date de sa dissolution.

Approbation d'une résolution spéciale

(4) Si la compagnie visée au paragraphe (1) ou (3) compte plus d'une catégorie d'actionnaires, chaque catégorie doit autoriser le maintien en approuvant la résolution spéciale visée au paragraphe applicable par un vote distinct.

Consentement du ministre non obligatoire

(5) Malgré les exigences de la présente loi ou de toute autre loi, l'autorisation ou le consentement du ministre n'est pas obligatoire pour que la compagnie visée au paragraphe (1) ou (3) présente une demande en vue de son maintien comme le prévoient ces paragraphes.

Interdiction de modifier les lettres patentes

(6) La compagnie visée au paragraphe (1) ne doit pas déposer de lettres patentes supplémentaires dans le cadre de la présente loi dans le but de modifier ses lettres patentes pour les rendre conformes à la loi en vertu de laquelle elle demande son maintien aux termes de ce paragraphe.

Requête : dispense de l'approbation des actionnaires

(7) La compagnie visée au paragraphe (1) ou (3) qui ne parvient pas à obtenir le quorum, notamment le quorum correspondant à chaque catégorie d'actionnaires, afin d'approuver la résolution spéciale exigée par le paragraphe applicable, peut, par voie de requête, demander au tribunal une ordonnance la dispensant de la résolution spéciale.

Idem

(8) Le tribunal peut rendre l'ordonnance demandée en vertu du paragraphe (7) aux conditions qu'il estime appropriées dans les circonstances, s'il est convaincu que la compagnie a fait des efforts raisonnables pour trouver les actionnaires et leur signifier un avis de convocation d'une assemblée.

Reconstitution d'une compagnie dissoute

(9) Si la compagnie à caractère social qui a été constituée ou maintenue en vertu de la présente loi a été dissoute en vertu du paragraphe 317 (9), ou d'une disposition qu'il remplace, avant le jour de l'entrée en vigueur du paragraphe 4 (1) mentionné au paragraphe (1), ce jour même ou par la suite, ou a été dissoute en application du paragraphe (2), elle est reconstituée à la date à laquelle un certificat de maintien est délivré en vertu d'une des lois mentionnées au paragraphe (1). La compagnie ne peut toutefois pas être reconstituée en vertu de la présente loi le jour de l'entrée en vigueur du paragraphe 4 (1) mentionné au paragraphe (1) ou par la suite.

Idem

(10) Au moment de la reconstitution, sous réserve des conditions et limitations imposées par la loi en vertu de laquelle elle est maintenue et des droits acquis par toute personne pendant la période de dissolution, la compagnie est réputée à toutes fins ne jamais avoir été dissoute.

Cessation d'effet

(11) La compagnie visée au paragraphe (1) ou (3) cesse d'être régie par la présente loi dès qu'elle est maintenue en vertu d'une autre loi.

(2) L'article 2.1 de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

5 La Loi est modifiée par adjonction des articles suivants avant la partie I :

Délégation

2.2 (1) Le ministre peut déléguer par écrit à quiconque la totalité ou une partie des fonctions et pouvoirs que lui attribue la présente loi, sous réserve des restrictions énoncées dans l'acte de délégation.

Idem : directeur

(2) Le directeur peut déléguer par écrit à quiconque la totalité ou une partie des fonctions et pouvoirs que lui attribue la présente loi, sous réserve des restrictions énoncées dans l'acte de délégation.

Accords avec des personnes autorisées

2.3 (1) La définition qui suit s'applique au présent article.

«services de dépôt pour les entreprises» S'entend notamment des fonctions et pouvoirs du ministre ou du directeur et des services connexes.

Accords pour la fourniture de services de dépôt pour les entreprises

(2) Le ministre ou une personne qu'il désigne peut, au nom de la Couronne du chef de l'Ontario, conclure un ou plusieurs accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du directeur ou d'un autre représentant du gouvernement.

Pas un mandataire de la Couronne

(3) Sauf disposition contraire d'un règlement pris en vertu de la présente loi, la personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises n'est à aucune fin un mandataire de la Couronne, malgré la *Loi sur les organismes de la Couronne*.

Utilisation des dossiers et renseignements

(4) L'accord conclu en vertu du paragraphe (2) peut aussi comprendre des dispositions concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Aucune incidence de l'accord sur le pouvoir discrétionnaire de déléguer

(5) L'accord conclu en vertu du paragraphe (2) n'a pas d'incidence sur le pouvoir qu'a le ministre ou le directeur de déléguer des fonctions ou pouvoirs en vertu du paragraphe 2.2 (1) ou (2), selon le cas.

Aucun pouvoir de renoncer aux droits relatifs aux services ou de les rembourser

(6) La personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises ne peut pas renoncer à l'acquittement des droits pour un tel service qui sont payables à la province de l'Ontario, ni les rembourser, que ce soit en totalité ou en partie. Elle peut toutefois acquitter tout ou partie des droits pour le compte de la personne ou de l'entité à qui le service a été fourni.

Date présumée de réception par le ministre

(7) Les demandes de lettres patentes ou de lettres patentes supplémentaires et les autres demandes, documents et renseignements envoyés à une personne ou à une entité qui a conclu un accord en vertu du paragraphe (2) l'autorisant à les recevoir au nom du ministre sont réputés avoir été reçus par le ministre à la date à laquelle la personne ou l'entité autorisée les a reçus.

Accords visant l'utilisation des dossiers et renseignements

(8) Le ministre, le directeur ou une personne désignée par l'un ou l'autre peut conclure avec toute personne ou entité un accord concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Propriété de la Couronne

2.4 Les dossiers et renseignements tenus par le ministre et déposés auprès de lui en application de la présente loi appartiennent à la Couronne.

Signature exigée sur les lettres patentes et attestations

2.5 (1) Les lettres patentes, les lettres patentes supplémentaires, l'arrêté, l'attestation de faits ou la copie certifiée conforme d'un document que délivre le ministre doivent porter la signature du ministre, du directeur ou d'un fonctionnaire employé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* et désigné par les règlements.

Preuve

(2) Les lettres patentes, les lettres patentes supplémentaires, l'arrêté, l'attestation de faits ou la copie certifiée conforme visés au paragraphe (1) constituent la preuve, en l'absence de preuve contraire, des faits qui y sont attestés dans toute enquête ou dans toute action ou instance civile, pénale, administrative ou autre, sans que la comparution personnelle soit nécessaire pour prouver l'authenticité de la signature ou la qualité officielle du présumé signataire des lettres patentes, des lettres patentes supplémentaires, de l'arrêté, de l'attestation ou de la copie certifiée conforme.

Reproduction de la signature

(3) Pour l'application du présent article, la signature du ministre, du directeur ou d'un fonctionnaire peut être reproduite mécaniquement, notamment sous forme imprimée ou électronique.

6 L'article 3 de la Loi est abrogé.

7 Le paragraphe 4 (1) de la Loi est modifié par remplacement de «Le lieutenant-gouverneur» par «Le ministre» au début du paragraphe.

8 Le paragraphe 5 (1) de la Loi est modifié par remplacement de «Le lieutenant-gouverneur» par «Le ministre» au début du paragraphe.

9 La Loi est modifiée par adjonction des articles suivants :**Dépôt par télécopie**

5.1 Malgré tout règlement pris en vertu de l'article 326.1, les demandes de lettres patentes ou de lettres patentes supplémentaires et les autres demandes, documents et renseignements ne peuvent être déposés par télécopie qu'avec le consentement du directeur.

Primauté de la version électronique

5.2 (1) Si une demande de lettres patentes, de lettres patentes supplémentaires, d'arrêté ou d'autorisation est déposée auprès du ministre sous forme électronique, en cas d'incompatibilité, la version électronique des lettres patentes, des lettres patentes supplémentaires, de l'arrêté ou de l'autorisation délivrés dans le cadre de la présente loi qui est enregistrée dans un système électronique tenu en application de l'article 6, ou l'imprimé de la version électronique, l'emporte sur toute autre version existante du document, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du directeur.

Idem : documents prescrits

(2) Si un document prescrit est déposé sous forme électronique, en cas d'incompatibilité, la version électronique du document enregistrée dans un système électronique tenu en application de l'article 6, ou l'imprimé de la version électronique, l'emporte sur toute autre version existante du document, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du directeur.

10 L'article 6 de la Loi est abrogé et remplacé par ce qui suit :**Forme des dossiers du ministre**

6 (1) Les dossiers dont la présente loi exige la tenue par le ministre peuvent être conservés sous forme imprimée, sous forme électronique ou sous forme de films ou peuvent être enregistrés à l'aide d'un procédé mécanique ou électronique de traitement des données ou de stockage de l'information qui peut reproduire les renseignements reçus sous une forme exacte et compréhensible dans un délai raisonnable.

Admissibilité en preuve

(2) Si le ministre tient des dossiers sous une forme non écrite :

a) il fournit les copies exigées en application de la présente loi sous une forme écrite compréhensible.

- b) les rapports extraits de ces dossiers qui se présentent comme certifiés par le ministre, par le directeur ou par un fonctionnaire employé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* et désigné par les règlements sont admissibles en preuve sans qu'il soit nécessaire d'établir la qualité officielle du présumé signataire du certificat ou de la copie certifiée conforme ou l'authenticité de sa signature.

Copie à la place du document

- (3) Le ministre n'est pas tenu de produire l'original d'un document dont une copie est fournie conformément à l'alinéa (2) a).

Impossibilité de recevoir des dépôts dans le système électronique

- (4) Malgré tout règlement pris en vertu de l'alinéa 326.1 (1) d), s'il est d'avis que, pour une raison quelconque, il est impossible de recevoir les demandes de lettres patentes ou de lettres patentes supplémentaires et les autres demandes, documents et renseignements sous forme électronique dans un système électronique tenu en application du présent article, le directeur peut exiger qu'ils soient déposés sous forme imprimée seulement, conformément aux exigences éventuelles du directeur, ou sous une autre forme électronique qu'il approuve.

Idem — Conservation des dépôts et des demandes jusqu'à ce que le système soit en service

- (5) S'il est d'avis que, pour une raison quelconque, il est impossible de délivrer les lettres patentes, les lettres patentes supplémentaires, les demandes ou les autres documents au moyen d'un système électronique tenu en application du présent article, ou d'effectuer des recherches au moyen du système, le ministre ou le directeur, selon le cas, peut conserver les demandes de lettres patentes ou de lettres patentes supplémentaires et les autres demandes et documents ainsi que les demandes faites pour des recherches qui ont été déposés, jusqu'à ce que les documents puissent être délivrés conformément à la présente loi, aux règlements et aux exigences éventuelles du directeur, et jusqu'à ce que les recherches puissent être effectuées.

Recherche

- 6.1 Sur acquittement des droits exigés, toute personne a le droit, par un moyen de recherche approuvé par le directeur, de rechercher tout document que la présente loi, les règlements ou le directeur exigent d'envoyer au ministre et d'en obtenir des copies.

11 L'article 8 de la Loi est abrogé et remplacé par ce qui suit :

Déposition sous serment

- 8 Le ministre, le directeur ou un fonctionnaire employé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* et désigné par les règlements à qui est renvoyée une demande, ou la personne à qui est renvoyée une demande aux termes d'un accord conclu en vertu de l'article 2.3, peut recevoir une déposition sous serment relativement à cette demande.

12 L'article 9 de la Loi est modifié par remplacement de «ou d'un décret, le lieutenant-gouverneur» par «ou d'un arrêté, le ministre».

13 La version française de l'article 10 de la Loi est modifiée par remplacement de «d'un décret» par «d'un arrêté».

14 Le paragraphe 12 (2) de la Loi est abrogé et remplacé par ce qui suit :

Date des lettres patentes

- (2) La date des lettres patentes, des lettres patentes supplémentaires, des arrêtés et des autorisations délivrés en vertu de la présente loi ou d'une loi qu'elle remplace doit être :

- a) soit celle du jour où le ministre reçoit ce qui suit :

- (i) la demande visant ces documents, rédigée selon le formulaire approuvé ou sous la forme électronique prescrite ou exigée, remplie conformément à la présente loi,
- (ii) tous les autres documents exigés, passés conformément à la présente loi, aux règlements et aux exigences du directeur,
- (iii) tous les autres renseignements exigés,
- (iv) les droits exigés;

- b) soit une date ultérieure que le directeur juge acceptable et qui est précisée par la personne ayant présenté la demande visant ces documents ou par le tribunal.

Date d'effet des lettres patentes

- (3) Les lettres patentes, les lettres patentes supplémentaires, l'arrêté ou l'autorisation délivrés en vertu de la présente loi ou d'une loi qu'elle remplace prennent effet à la date qui y est indiquée, même si les mesures que doit prendre le ministre en application de la présente loi relativement à la délivrance et au dépôt ou à l'enregistrement du document par le ministre sont prises à une date ultérieure.

15 La Loi est modifiée par adjonction de l'article suivant :

Délivrance de lettres patentes

12.1 Sauf disposition contraire de la présente loi, de ses règlements ou des exigences du directeur, à la réception d'une demande de lettres patentes, de lettres patentes supplémentaires, d'arrêté ou d'autorisation, rédigée selon le formulaire approuvé ou sous la forme électronique prescrite ou exigée et remplie conformément à la présente loi, des autres documents et renseignements exigés et des droits exigés, le ministre peut, sous réserve du pouvoir discrétionnaire que lui confère la présente loi et sous réserve du paragraphe 12 (2) :

- a) délivrer les lettres patentes, les lettres patentes supplémentaires, l'arrêté ou l'autorisation, selon le cas, avec un certificat indiquant le jour, le mois et l'année de la délivrance ainsi que le numéro de la personne morale;
- b) déposer les lettres patentes, les lettres patentes supplémentaires, l'arrêté ou l'autorisation délivrés avec un certificat dans les dossiers tenus en vertu de l'article 6;
- c) envoyer ou mettre autrement à la disposition de la personne morale ou de son représentant une copie des lettres patentes, des lettres patentes supplémentaires, de l'arrêté ou de l'autorisation délivrés, selon le cas, sous la forme approuvée par le directeur.

16 Le paragraphe 13 (4) de la Loi est abrogé et remplacé par ce qui suit :

Dépôt d'une copie de l'ordonnance

(4) Dans les 10 jours après qu'une ordonnance a été rendue en vertu du paragraphe (3), la personne morale dépose auprès du ministre une copie certifiée conforme de l'ordonnance portant le sceau du tribunal, une copie notariée de la copie certifiée conforme ou tout autre type de copie autorisée par le directeur.

17 Le paragraphe 16 (3) de la Loi est abrogé et remplacé par ce qui suit :

Remise de documents

(3) À la demande du ministre et dans le délai qu'il précise, la personne morale remet les lettres patentes ou les lettres patentes supplémentaires qui sont en train d'être rectifiées.

18 L'article 17 de la Loi est abrogé et remplacé par ce qui suit :

Constitution en personne morale

17 Une compagnie ne peut être constituée en vertu de la présente partie que si la partie V s'y appliquerait.

19 Le paragraphe 18 (1) de la Loi est modifié par remplacement de «lieutenant-gouverneur» par «ministre» dans le passage qui précède la disposition 1.

20 Le paragraphe 29 (5) de la Loi est modifié par remplacement de «Le lieutenant-gouverneur» par «Le ministre» au début du paragraphe.

21 (1) Le paragraphe 34 (1) de la Loi est modifié par remplacement de «lieutenant-gouverneur» par «ministre» dans le passage qui précède l'alinéa a).

(2) Les alinéas 34 (1) m), n) et q) de la Loi sont abrogés.

(3) L'article 34 de la Loi est modifié par adjonction du paragraphe suivant :

Application des alinéas (1) l), o) et p)

(10) Les alinéas (1) l), o) et p) ne s'appliquent qu'à l'égard d'un assureur au sens du paragraphe 141 (1).

22 Le paragraphe 61 (1) de la Loi est abrogé et remplacé par ce qui suit :

Dépôt d'une copie

(1) Est déposée sans délai auprès du ministre une copie certifiée conforme par un dirigeant de la compagnie ou tout autre type de copie autorisée par le directeur de toute charge ou hypothèque ou de tout autre acte de nantissement consenti par la compagnie pour garantir ses valeurs mobilières.

23 L'alinéa 93 (1) a) de la Loi est abrogé et remplacé par ce qui suit :

a) l'avis du jour, de l'heure et du lieu de la tenue d'une assemblée des actionnaires est donné par écrit, au moins 10 jours avant la date de l'assemblée, à chacun des actionnaires qui a le droit de le recevoir, à moins que tous ces actionnaires n'y aient renoncé par écrit;

a) si l'avis prévu à l'alinéa a) est donné par courrier, il est envoyé par courrier affranchi à la dernière adresse de l'actionnaire figurant dans les livres de la compagnie;

24 Le paragraphe 94 (6) de la Loi est abrogé et remplacé par ce qui suit :

Nomination par le tribunal

(6) Si, pour quelque raison que ce soit, aucun vérificateur n'est nommé, le tribunal peut, à la demande d'un actionnaire, nommer un ou plusieurs vérificateurs pour l'exercice en cours et fixer la rémunération que doit lui ou leur verser la compagnie.

25 L'article 112 de la Loi est modifié par adjonction du paragraphe suivant :**Avis au ministre**

(6) Quiconque présente une requête dans le cadre du présent article en avise le ministre et celui-ci a le droit de comparaître devant le tribunal et d'être entendu en personne ou par l'intermédiaire d'un avocat.

26 Le paragraphe 113 (4) de la Loi est modifié par remplacement de «lieutenant-gouverneur» par «ministre».

27 L'article 117 de la Loi est abrogé.

28 (1) La Loi est modifiée par adjonction de l'article suivant :

Incompatibilité**Primauté des autres lois et règlements**

117.1 (1) Les dispositions d'une autre loi ou d'un autre règlement qui s'appliquent à une personne morale l'emportent sur toute disposition incompatible de la présente loi ou de ses règlements qui s'y applique.

Primauté des règles du droit des organismes de bienfaisance

(2) Les règles du droit relatif aux organismes de bienfaisance, qu'il s'agisse d'une disposition d'une autre loi ou d'un autre règlement ou d'une règle ou d'un principe de common law ou d'equity, l'emportent sur toute disposition incompatible de la présente loi ou de ses règlements qui s'applique à une personne morale qui est constituée exclusivement à des fins de bienfaisance.

Incompatibilité avec l'objet

(3) Une disposition de la présente loi ou de ses règlements ne s'applique pas à une personne morale dans la mesure où elle est incompatible avec l'objet d'une autre loi ou d'un autre règlement qui s'y applique.

Non-application du présent article

(4) Le présent article ne s'applique pas à une personne morale à laquelle s'applique la partie V.

(2) L'article 117.1 de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

29 L'article 118 de la Loi est abrogé et remplacé par ce qui suit :

Constitution en personne morale

118 Une personne morale ne peut être constituée en vertu de la présente partie que si la partie V s'y appliquerait.

30 Le paragraphe 119 (1) de la Loi est modifié par remplacement de «lieutenant gouverneur» par «ministre» dans le passage qui précède la disposition 1.

31 (1) La Loi est modifiée par adjonction de l'article suivant :

Assemblées des membres

125.1 (1) Sauf disposition contraire des règlements administratifs d'une personne morale, les assemblées des membres peuvent se tenir par un moyen de communication téléphonique ou électronique. Les membres qui votent par ce moyen lors des assemblées ou qui établissent un lien de communication avec elles sont réputés, pour l'application de la présente loi, y être présents.

Non-application du présent article

(2) Le présent article ne s'applique pas à une personne morale à laquelle s'applique la partie V.

(2) L'article 125.1 de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

32 L'article 126 de la Loi est abrogé.

33 (1) La Loi est modifiée par adjonction de l'article suivant :

Capacité et pouvoirs

126.1 (1) La personne morale a la capacité et, sous réserve de la présente loi, les droits, les pouvoirs et les privilèges d'une personne physique.

Capacité d'agir à l'extérieur de l'Ontario

(2) La personne morale a la capacité d'exercer ses activités et ses pouvoirs et de conduire ses affaires internes dans une autorité législative à l'extérieur de l'Ontario, dans les limites des lois de cette autre autorité.

Pouvoir conféré sans règlement administratif

(3) L'adoption d'un règlement administratif n'est pas nécessaire pour conférer un pouvoir particulier à la personne morale ou à ses administrateurs.

Activités et pouvoirs limités

(4) La personne morale ne doit pas exercer des activités ou des pouvoirs dont sa loi constitutive ou son autre acte constitutif (étant entendu que cet acte comprendrait un acte qui le modifie) limite l'exercice, ni exercer ses pouvoirs d'une manière contraire à sa loi constitutive ou à son autre acte constitutif.

Validité de l'acte contraire à l'acte constitutif

(5) Les actes de la personne morale, y compris les transferts de biens, ne sont pas nuls du seul fait qu'ils sont contraires à sa loi constitutive ou à son autre acte constitutif (étant entendu que cet acte comprendrait un acte qui le modifie), à ses règlements administratifs ou à la présente loi.

Non-application du présent article

(6) Le présent article ne s'applique pas à une personne morale à laquelle s'applique la partie V.

Non-application d'autres dispositions

(7) Si le présent article s'applique à une personne morale :

a) les alinéas 23 (1) a) à p) et s) à v), le paragraphe 23 (2) et l'article 59 ne s'y appliquent pas, malgré le paragraphe 133 (1);

b) les articles 274 et 275 ne s'y appliquent pas.

(2) L'article 126.1 de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

34 (1) La Loi est modifiée par adjonction de l'article suivant :

Vente, location ou échange extraordinaire

126.2 (1) La personne morale peut vendre, louer, échanger ou aliéner l'entreprise de la personne morale en totalité ou en partie, cette partie constituant un tout ou essentiellement un tout, pour la contrepartie qu'elle estime appropriée, pourvu qu'elle soit autorisée à le faire par une résolution spéciale.

Non-application du présent article

(2) Le présent article ne s'applique pas à une personne morale à laquelle s'applique la partie V.

(2) L'article 126.2 de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

35 (1) La Loi est modifiée par adjonction de l'article suivant :

Contrats antérieurs à la constitution

Obligation de la partie

126.3 (1) Sous réserve des autres dispositions du présent article, la personne qui conclut un contrat au nom ou pour le compte de la personne morale avant sa constitution est liée personnellement par ce contrat et peut en bénéficier.

Ratification

(2) La personne morale peut, dans un délai raisonnable après sa constitution, par toute mesure ou conduite qui exprime son intention d'être ainsi liée, ratifier un contrat passé en son nom ou pour son compte avant sa constitution. Dès cette ratification :

a) la personne morale est liée par le contrat et peut en bénéficier comme si elle était déjà constituée à la date du contrat et était partie à celui-ci;

b) la personne qui s'est engagée au nom ou pour le compte de la personne morale cesse, sous réserve du paragraphe (3), d'être liée par le contrat et de pouvoir en bénéficier.

Détermination des parts de responsabilité par le tribunal

(3) Sous réserve du paragraphe (4), indépendamment de la ratification par la personne morale d'un contrat passé avant sa constitution, une partie au contrat peut, par voie de requête, demander au tribunal une ordonnance déclarant que la personne morale et la personne qui s'est engagée en son nom ou pour son compte sont tenues conjointement ou conjointement et individuellement aux obligations résultant du contrat, ou établissant leur part respective de responsabilité. À la suite de la requête, le tribunal peut rendre l'ordonnance qu'il estime indiquée.

Exception

(4) La personne qui s'est engagée au nom ou pour le compte de la personne morale avant sa constitution n'est en aucun cas liée par le contrat et ne peut en bénéficier si le contrat le prévoit expressément.

Droit de modifier, de céder ou de résilier le contrat

(5) Jusqu'à ce que la personne morale ratifie un contrat passé avant sa constitution, la personne qui l'a conclu en son nom ou pour son compte peut le céder, le modifier ou le résilier, sous réserve des conditions du contrat.

Non-application du présent article

(6) Le présent article ne s'applique pas à une personne morale à laquelle s'applique la partie V.

Définition

(7) La définition qui suit s'applique au présent article.

«contrat» S'entend notamment d'un contrat oral.

(2) L'article 126.3 de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

36 (1) La Loi est modifiée par adjonction de l'article suivant :

Devoirs des administrateurs et des dirigeants**Degré de diligence**

127.1 (1) Dans l'exercice de leurs pouvoirs et de leurs fonctions pour le compte de la personne morale, les administrateurs et les dirigeants agissent :

- a) avec intégrité et de bonne foi au mieux des intérêts de la personne morale;
- b) avec le soin, la diligence et la compétence dont ferait preuve, en pareilles circonstances, une personne d'une prudence raisonnable.

Obligation d'observer la Loi

(2) Les administrateurs et les dirigeants observent :

- a) la présente loi et ses règlements;
- b) la loi constitutive ou l'autre acte constitutif de la personne morale (étant entendu que cet acte comprendrait un acte qui le modifie) et ses règlements administratifs.

Absence d'exonération

(3) Aucune des dispositions suivantes ne libère les administrateurs ou les dirigeants d'une personne morale de l'obligation d'agir conformément à la présente loi et à ses règlements ni de la responsabilité découlant de leur inobservation :

1. Une disposition d'un contrat.
2. Une disposition de la loi constitutive ou de l'autre acte constitutif de la personne morale (étant entendu que cet acte comprendrait un acte qui le modifie).
3. Une disposition des règlements administratifs.
4. Une disposition d'une résolution.

Non-application du présent article

(4) Le présent article ne s'applique pas à une personne morale à laquelle s'applique la partie V.

(2) L'article 127.1 de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

37 (1) La Loi est modifiée par adjonction de l'article suivant :

Révocation des administrateurs

127.2 (1) Les membres de la personne morale peuvent, au moyen d'une résolution adoptée par une majorité des voix exprimées à une assemblée générale dont a été donné un avis de convocation faisant part de l'intention d'adopter une telle résolution, révoquer un ou plusieurs administrateurs, à l'exception des administrateurs d'office.

Administrateurs élus par un groupe de membres

(2) Les administrateurs élus par un groupe de membres qui a le droit exclusif d'élire des administrateurs ne peuvent être révoqués qu'au moyen d'une résolution adoptée par une majorité des voix exprimées par les membres de ce groupe à une assemblée générale dont a été donné un avis de convocation faisant part de l'intention d'adopter une telle résolution.

Vacance créée par la révocation d'un administrateur

(3) La vacance découlant de la révocation d'un administrateur peut être comblée pour le reste de son mandat à l'assemblée des membres qui l'a révoqué ou en vertu du paragraphe 288 (2), (3) ou (4), selon le cas.

Lettres patentes et règlements administratifs antérieurs

(4) Le présent article n'a pas d'incidence sur les dispositions relatives à la révocation des administrateurs contenues dans ce qui suit :

- a) les lettres patentes ou les lettres patentes supplémentaires d'une personne morale délivrées avant le jour de l'entrée en vigueur du paragraphe 37 (1) de l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*;
- b) les règlements administratifs d'une personne morale adoptés avant le jour de l'entrée en vigueur du paragraphe 37 (1) de l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*.

Non-application du présent article

(5) Le présent article ne s'applique pas à une personne morale à laquelle s'applique la partie V.

Non-application de l'art. 67

(6) Malgré le paragraphe 133 (1), l'article 67 ne s'applique pas à une personne morale à laquelle s'applique la présente partie, mais non la partie V.

(2) L'article 127.2 de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

38 (1) La Loi est modifiée par adjonction de l'article suivant :**Dispense de la vérification annuelle**

130.1 (1) Les membres de la personne morale peuvent décider, par voie de résolution exceptionnelle, de ne pas nommer de vérificateur et de ne pas prévoir de mission de vérification à l'égard de l'exercice de la personne morale si son revenu annuel pour l'exercice est d'au plus 100 000 \$ ou l'autre montant prescrit par les règlements pris en vertu de la présente loi.

Validité de la résolution

(2) La résolution exceptionnelle adoptée en vertu du présent article est valide jusqu'à la prochaine assemblée annuelle des membres.

Non-application du présent article

(3) Le présent article ne s'applique pas à une personne morale à laquelle s'applique la partie V.

Non-application de l'art. 96.1

(4) Si le présent article s'applique à une personne morale, l'article 96.1 ne s'y applique pas, malgré le paragraphe 133 (1).

Définition

(5) La définition qui suit s'applique au présent article.

«résolution exceptionnelle» Résolution qui est :

- a) soit adoptée à au moins 80 % des voix exprimées à une assemblée générale dont a été donné un avis de convocation faisant part de l'intention d'adopter la résolution;
- b) soit adoptée du consentement écrit de chaque membre de la personne morale qui a le droit de voter à une assemblée générale des membres ou de son procureur.

(2) L'article 130.1 de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

39 Le paragraphe 131 (1) de la Loi est modifié par remplacement de «au lieutenant gouverneur» par «au ministre» dans le passage qui précède l'alinéa a).

40 Les paragraphes 133 (2) et (2.2) de la Loi sont abrogés.

41 La partie IV (articles 134 à 139) de la Loi est abrogée.

42 Le paragraphe 144 (2) de la Loi est modifié par remplacement de «lieutenant-gouverneur» par «ministre».

43 Le paragraphe 147 (2) de la Loi est modifié par remplacement de «lieutenant-gouverneur en conseil» par «surintendant».

44 (1) Le paragraphe 149 (10) de la Loi est modifié par remplacement de «présentent au ministre» par «déposent auprès du ministre» dans le passage qui précède l'alinéa a).

(2) Le paragraphe 149 (11) de la Loi est modifié par remplacement de «être présentés» par «être déposés auprès de lui».

45 (1) Le paragraphe 153 (1) de la Loi est modifié par remplacement de «lieutenant gouverneur en conseil» par «ministre».

(2) Le paragraphe 153 (4) de la Loi est modifié par remplacement de «présentent au ministre» par «déposent auprès du ministre» dans le passage qui précède l'alinéa a).

46 (1) Le paragraphe 154 (1) de la Loi est modifié par remplacement de «lieutenant-gouverneur» par «ministre».

(2) Le paragraphe 154 (5) de la Loi est modifié par remplacement de «présentent au ministre» par «déposent auprès du ministre» dans le passage qui précède l'alinéa a).

47 (1) L'alinéa 161 (1) a) de la Loi est modifié par remplacement de «soit envoyé par la poste» par «soit donné par écrit» au début de l'alinéa.

(2) L'alinéa 161 (7) a) de la Loi est modifié par remplacement de «soit envoyé par la poste» par «soit donné par écrit» au début de l'alinéa.

48 (1) Le paragraphe 176 (1) de la Loi est modifié par remplacement de «Le lieutenant-gouverneur» par «Le ministre» au début du paragraphe.

(2) Le paragraphe 176 (4) de la Loi est abrogé et remplacé par ce qui suit :

Autres documents

(4) La requête est accompagnée de ce qui suit :

- a) une copie certifiée conforme par un dirigeant de la société fraternelle, ou tout autre type de copie autorisée par le directeur, de l'original du registre des membres ou d'une liste contenant les signatures certifiées conformes d'au moins 75 personnes qui s'engagent ainsi à devenir membres de la société fraternelle lorsqu'elle sera constituée;
- b) une copie des règlements administratifs projetés de la société fraternelle;
- c) une preuve que le surintendant a approuvé les règlements administratifs et les règles projetés.

49 Le paragraphe 178 (1) de la Loi est modifié par remplacement de «lieutenant-gouverneur» par «ministre».

50 Le paragraphe 185 (1) de la Loi est modifié par remplacement de «Le lieutenant gouverneur» par «Le ministre» au début du paragraphe.

51 Le paragraphe 194 (1) de la Loi est modifié par remplacement de «est déposée au bureau du ministre» par «est déposée auprès du ministre».

52 L'article 229 de la Loi est abrogé.

53 Le paragraphe 231 (1) de la Loi est modifié par suppression de «et publié dans la *Gazette de l'Ontario*».

54 Le paragraphe 266 (5) de la Loi est abrogé et remplacé par ce qui suit :

Dépôt d'une copie de l'ordonnance de prorogation

(5) Dans les 10 jours après que l'ordonnance est rendue, l'auteur de la requête dont elle découle dépose auprès du ministre une copie certifiée conforme de l'ordonnance portant le sceau du tribunal, une copie notariée de la copie certifiée conforme ou tout autre type de copie de l'ordonnance autorisée par le directeur.

55 Le paragraphe 267 (2) de la Loi est abrogé et remplacé par ce qui suit :

Dépôt d'une copie de l'ordonnance de dissolution

(2) Dans les 10 jours après que l'ordonnance est rendue, l'auteur de la requête dont elle découle dépose auprès du ministre une copie certifiée conforme de l'ordonnance portant le sceau du tribunal, une copie notariée de la copie certifiée conforme ou tout autre type de copie de l'ordonnance autorisée par le directeur.

56 L'article 272 de la Loi est abrogé.

57 (1) Le paragraphe 283 (5) de la Loi est modifié par suppression de «Sous réserve du paragraphe (6),» au début du paragraphe.

(2) Le paragraphe 283 (6) de la Loi est abrogé.

58 (1) Le paragraphe 286 (3) de la Loi est modifié par adjonction de l'alinéa suivant :

- d) toute personne morale à laquelle s'applique la partie III, mais non la partie V.

(2) Le paragraphe 286 (3) de la Loi, tel qu'il est modifié par le paragraphe (1), est abrogé et remplacé par ce qui suit :

Exception relative aux assureurs

(3) La personne morale peut prévoir par règlement administratif qu'une personne peut, si elle y consent par écrit, être administrateur de la personne morale sans en être actionnaire ou membre si la personne morale est un assureur auquel la partie V s'applique, à l'exclusion d'une caisse de retraite ou d'une société de secours mutuel d'employés.

59 (1) L'article 288 de la Loi est modifié par adjonction du paragraphe suivant :

Requête

(4) Si une personne morale à laquelle s'applique la partie III, mais non la partie V, n'a pas d'administrateurs ni de membres, le tribunal peut, par ordonnance, sur requête de tout intéressé, nommer le nombre fixe d'administrateurs prévu :

- a) soit par la loi constitutive ou l'autre acte constitutif de la personne morale (étant entendu que cet acte comprendrait un acte qui le modifie);
- b) soit par une résolution spéciale visée au paragraphe 285 (1).

(2) Le paragraphe 288 (4) de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

60 Le paragraphe 296 (2) de la Loi est modifié par remplacement de «à chaque actionnaire ou à chaque membre qui a le droit de les recevoir, de la manière et à l'époque prescrites» par «par écrit à chaque actionnaire ou à chaque membre qui a le droit de les recevoir, de la manière et au moment prescrits».

61 Le paragraphe 304 (5) de la Loi est abrogé et remplacé par ce qui suit :

Annulation des arrêtés pris en vertu de l'ancien par. (3)

(5) Le ministre peut, par arrêté et aux conditions qu'il estime indiquées, annuler tout arrêté pris en vertu du paragraphe (3), dans sa version en vigueur le 28 février 1999, ou de tout arrêté ou décret pris en vertu d'une disposition que ce paragraphe remplace.

62 Le paragraphe 311 (3) de la Loi est modifié par remplacement de «le lieutenant-gouverneur peut considérer qu'il s'agit d'un motif suffisant pour prendre un décret» par «le ministre peut considérer qu'il s'agit d'un motif suffisant pour prendre un arrêté».

63 (1) Le paragraphe 312 (1) de la Loi est modifié par remplacement de «lieutenant-gouverneur» par «ministre».

(2) Le paragraphe 312 (2) de la Loi est modifié par remplacement de «lieutenant-gouverneur» par «ministre».

(3) Le paragraphe 312 (3) de la Loi est abrogé et remplacé par ce qui suit :

Transfert de personnes morales étrangères

(3) La personne morale constituée ou maintenue ailleurs qu'en Ontario peut, s'il semble au ministre qu'elle y est autorisée par les lois qui la régissent, présenter une requête au ministre pour obtenir des lettres patentes assurant son maintien comme si elle avait été constituée en vertu de la présente loi. Le ministre peut délivrer les lettres patentes s'il juge que les documents qui accompagnent la requête sont satisfaisants, et peut les assortir des conditions, restrictions et dispositions qu'il juge appropriées.

64 (1) Le paragraphe 313 (1) de la Loi est modifié par suppression de «au Canada».

(2) Le paragraphe 313 (1) de la Loi est modifié par insertion de «ou une compagnie visée à l'article 2.1» après «autre qu'une compagnie d'assurance».

(3) Le paragraphe 313 (1) de la Loi, tel qu'il est modifié par le paragraphe (2), est modifié par suppression de «ou une compagnie visée à l'article 2.1» après «autre qu'une compagnie d'assurance».

(4) L'article 313 de la Loi est modifié par adjonction du paragraphe suivant :

Limite : maintien des droits

(1.0.1) La personne morale à laquelle s'applique la partie III mais non la partie V ne peut demander, en vertu du paragraphe (1), que lui soit délivré un acte assurant son maintien comme si elle avait été constituée en vertu des lois d'une autre autorité législative que si ces lois prévoient ce qui suit :

- a) les biens de la personne morale continuent de lui appartenir;
- b) la personne morale continue d'être responsable de ses obligations;
- c) le maintien n'a pas d'incidence sur une cause d'action ou une réclamation existantes ou la possibilité d'être poursuivi;
- d) la personne morale peut continuer d'être partie à une action ou à une instance civile, criminelle ou administrative intentée par la personne morale ou contre elle;
- e) une déclaration de culpabilité, une décision, un ordre, une ordonnance, un décret, un arrêté ou un jugement rendu ou pris contre la personne morale peut être exécuté à l'endroit de celle-ci et une décision, un ordre, une ordonnance, un décret, un arrêté ou un jugement rendu ou pris en faveur de la personne morale peut être exécuté par celle-ci.

(5) Le paragraphe 313 (1.0.1) de la Loi, tel qu'il est édicté par le paragraphe (4), est abrogé.

(6) Le paragraphe 313 (2) de la Loi est abrogé et remplacé par ce qui suit :

Avis

(2) La personne morale qui présente une demande en vertu du paragraphe (1) ou (1.1) dépose auprès du ministre un avis de la délivrance de l'acte assurant son maintien. À compter de la date de ce dépôt, la personne morale cesse d'être régie par la présente loi.

Avis tenant lieu de dépôt

(3) Si le fonctionnaire compétent de l'autre autorité législative l'avise qu'il a délivré un acte assurant le maintien d'une personne morale qui en a fait la demande en vertu du paragraphe (1) ou (1.1), le ministre peut, s'il l'estime indiqué et s'il est convaincu que la personne morale a satisfait aux exigences prévues par le présent article, aviser celle-ci qu'elle est réputée s'être conformée au paragraphe (2).

65 Le paragraphe 313.1 (2) de la Loi est abrogé.

66 (1) Le paragraphe 315 (1) de la Loi est modifié par remplacement de «de lieutenant-gouverneur peut, après lui avoir donné le préavis qu'il juge approprié, déclarer par décret» par «le ministre peut, après lui avoir donné le préavis qu'il juge approprié, déclarer par arrêté».

(2) Le paragraphe 315 (3) de la Loi est modifié par remplacement de «de lieutenant-gouverneur peut, par décret» par «le ministre peut, par arrêté».

67 L'article 316 de la Loi est modifié par remplacement de «de lieutenant-gouverneur peut prendre un décret» par «le ministre peut prendre un arrêté» dans le passage qui précède l'alinéa a).

68 (1) Le paragraphe 317 (1) de la Loi est abrogé et remplacé par ce qui suit :**Annulation pour des motifs suffisants**

(1) S'il lui est présenté un motif suffisant de le faire, le ministre peut faire ce qui suit, par arrêté et aux conditions qu'il estime convenables, après avoir donné à la personne morale l'occasion d'être entendue et malgré l'imposition d'autres sanctions et outre les autres droits que peut accorder au ministre la présente loi ou une autre loi :

- a) annuler les lettres patentes d'une personne morale et la déclarer dissoute à compter de la date fixée dans l'arrêté;
- b) déclarer qu'une personne morale constituée autrement que par lettres patentes cesse d'exister et est dissoute à compter de la date fixée dans l'arrêté;
- c) annuler les lettres patentes supplémentaires délivrées à une personne morale et déclarer que l'effet produit par leur délivrance cesse à compter de la date fixée dans l'arrêté;
- d) annuler les lettres patentes de fusion ou de maintien d'une personne morale et déclarer que la fusion ou le maintien cesse de produire ses effets à compter de la date fixée dans l'arrêté;
- e) annuler un arrêté reconstituant une personne morale pris en vertu du paragraphe (10) et déclarer qu'il cesse de produire ses effets à compter de la date fixée dans l'arrêté pris en vertu du présent paragraphe;
- f) annuler un arrêté de dissolution pris en vertu du paragraphe 319 (2) et déclarer qu'il cesse de produire ses effets à compter de la date fixée dans l'arrêté pris en vertu du présent paragraphe;
- g) annuler un arrêté de dissolution pris en vertu de l'article 320 et déclarer qu'il cesse de produire ses effets à compter de la date fixée dans l'arrêté pris en vertu du présent paragraphe.

(2) La version française du paragraphe 317 (6) de la Loi est modifiée par remplacement de «de tout décret» par «de tout arrêté».

(3) Le paragraphe 317 (9) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) par ce qui suit :

Arrêté de dissolution

(9) S'il semble qu'une personne morale a omis de se conformer à une obligation de dépôt prévue par la *Loi sur les renseignements exigés des personnes morales*, et qu'elle a été avisée de cette omission conformément à l'article 324 ou au moyen de la publication visée à l'article 326.8, le ministre peut, par arrêté, à l'expiration d'un délai de 90 jours après la remise ou la publication de cet avis d'omission :

(4) L'article 317 de la Loi est modifié par adjonction des paragraphes suivants :

Idem

(10.1) Le ministre peut prendre un arrêté révoquant l'arrêté de dissolution pris en vertu du paragraphe (9) si, selon le cas :

- a) il n'existait aucun pouvoir de prendre l'arrêté de dissolution;
- b) une erreur a été commise à l'égard de l'arrêté de dissolution;

- c) les circonstances prescrites existent.

Effet de l'arrêté pris en vertu du par. (10.1)

(12.1) Si un arrêté est pris en vertu du paragraphe (10.1) :

- a) il prend effet à la date de l'arrêté de dissolution;
- b) la personne morale est réputée à toutes fins ne jamais avoir été dissoute, sous réserve des droits acquis, le cas échéant, par toute personne durant la période de dissolution.

(5) Le paragraphe 317 (14) de la Loi est modifié par insertion de « , à l'exception d'une compagnie visée à l'article 2.1 » après « ou d'une disposition qu'il remplace » dans le passage qui précède l'alinéa a).

(6) Le paragraphe 317 (14) de la Loi, tel qu'il est modifié par le paragraphe (5), est modifié par suppression de « , à l'exception d'une compagnie visée à l'article 2.1 » après « ou d'une disposition qu'il remplace » dans le passage qui précède l'alinéa a).

69 (1) Le paragraphe 319 (1) de la Loi est modifié par remplacement de « lieutenant-gouverneur » par « ministre » dans le passage qui précède l'alinéa a).

(2) Le paragraphe 319 (2) de la Loi est abrogé et remplacé par ce qui suit :

Acceptation de l'abandon de sa charte et dissolution de la personne morale

(2) Dès que la personne morale s'est conformée au présent article, le ministre peut, par arrêté, accepter l'abandon de sa charte et déclarer qu'elle est dissoute à compter de la date fixée dans l'arrêté.

(3) Le paragraphe 319 (2.1) de la Loi est modifié par remplacement de « lieutenant-gouverneur » par « ministre ».

70 L'article 320 de la Loi est modifié par remplacement de « Le lieutenant-gouverneur peut, par décret, » par « Le ministre peut, par arrêté, » au début de l'article.

71 (1) Le paragraphe 324 (3) de la Loi est modifié par suppression de « par le lieutenant-gouverneur ou ».

(2) Le paragraphe 324 (4) de la Loi est abrogé et remplacé par ce qui suit :

Idem

(4) Les avis ou autres documents visés au paragraphe (3) peuvent être envoyés par un moyen de communication téléphonique ou électronique si leur envoi est consigné. Il est entendu que l'envoi d'un avis ou d'un autre document par un moyen de communication téléphonique ou électronique n'exige pas le consentement du destinataire prévu.

(3) Le paragraphe 324 (5) de la Loi est modifié par suppression de « par le lieutenant-gouverneur ou » dans le passage qui précède l'alinéa a).

(4) L'alinéa 324 (6) b) de la Loi est modifié par suppression de « par le lieutenant-gouverneur ou ».

72 (1) Le paragraphe (2) ne s'applique que si le paragraphe (5) n'entre pas en vigueur avant le jour de l'entrée en vigueur du présent paragraphe.

(2) L'article 326.1 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(1.1) Le ministre peut, par règlement, prescrire un montant pour l'application du paragraphe 130.1 (1).

(3) Le paragraphe (4) ne s'applique que si le paragraphe (5) n'entre pas en vigueur avant le jour de l'entrée en vigueur du présent paragraphe.

(4) Le paragraphe 326.1 (1.1) de la Loi, tel qu'il est édicté par le paragraphe (2), est abrogé.

(5) L'article 326.1 de la Loi est abrogé et remplacé par ce qui suit :

Règlements et arrêtés du ministre

Règlements

326.1 (1) Le ministre peut, par règlement :

- a) prescrire ou régir tout ce que la présente loi mentionne comme étant prescrit ou fait par règlement ou conformément aux règlements;
- b) traiter de la tenue, de la forme et du dépôt des demandes de lettres patentes ou de lettres patentes supplémentaires, des autres demandes, des documents et des renseignements déposés auprès du ministre ou délivrés par ce dernier, ainsi que de la forme et de l'acquittement des droits, et régir ces aspects;

- c) traiter de la façon de remplir, de présenter et d'accepter les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes, les documents et les renseignements déposés auprès du ministre, de l'acquiescement des droits et de l'établissement de la date de réception, et régir ces aspects;
- d) désigner les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes, les documents et les renseignements qui doivent être déposés auprès du ministre :
 - (i) sous forme imprimée ou électronique,
 - (ii) sous forme électronique seulement,
 - (iii) sous forme imprimée seulement;
- e) sous réserve des conditions précisées dans le règlement, prescrire et régir les documents et les renseignements qui doivent accompagner les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes et les autres formulaires approuvés mentionnés à l'article 326.6 et préciser, pour chacune des formes désignées visées à l'alinéa d) :
 - (i) les documents et les renseignements qui doivent être déposés auprès du ministre avec les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes et les autres formulaires approuvés mentionnés à l'article 326.6,
 - (ii) les documents et les renseignements qui doivent être conservés par la personne morale et qui, à la réception de l'avis écrit du directeur et conformément à cet avis, et sous réserve des conditions qu'il impose, doivent être déposés auprès du ministre ou remis à l'autre personne qui y est précisée;
- f) permettre au directeur, sous réserve des conditions qu'il impose, de faire ce qui suit pour chacune des formes désignées visées à l'alinéa d) :
 - (i) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa e) (i) soient conservés par la personne morale et, à la réception de l'avis écrit du directeur et conformément à cet avis, soient déposés auprès du ministre ou remis à l'autre personne qui y est précisée,
 - (ii) exiger que les documents ou les renseignements prescrits en vertu du sous-alinéa e) (ii) soient déposés auprès du ministre avec les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes et les autres formulaires approuvés mentionnés à l'article 326.6,
 - (iii) exiger que les documents dont la présente loi exige le dépôt auprès du ministre soient conservés par la personne morale et, à la réception de l'avis écrit du directeur et conformément à cet avis, soient déposés auprès du ministre ou remis à l'autre personne qui y est précisée;
- g) régir les conditions que le directeur peut imposer conformément à un règlement pris en vertu du sous-alinéa e) (ii) ou de l'alinéa f);
- h) traiter de la délivrance de lettres patentes, de lettres patentes supplémentaires, d'arrêtes, de certificats, d'autorisations et d'autres documents par le ministre, y compris des règles relatives à la délivrance par des moyens électroniques, et régir ces aspects:
- i) régir l'attribution de numéros de personne morale en application de l'article 326.5;
- j) régir la conservation et la destruction des lettres patentes, des lettres patentes supplémentaires, des demandes et des autres documents et renseignements déposés en application de la présente loi, notamment la forme sous laquelle ils doivent être conservés;
- k) prescrire les fonctions et pouvoirs du directeur, outre ceux énoncés dans la présente loi:
 - l) désigner les fonctionnaires ou les catégories de fonctionnaires employés aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* chargés de délivrer des lettres patentes, des lettres patentes supplémentaires, des arrêtes ou des attestations de faits ou de certifier conformes des copies de documents exigés ou autorisés par la présente loi, et les désigner pour l'application de l'article 8 de la présente loi;
- m) prévoir qu'une personne ou une entité qui conclut un accord en vertu du paragraphe 2.3 (2) est un mandataire de la Couronne et préciser les services et les fins à l'égard desquels la personne ou l'entité est considérée comme un mandataire de la Couronne;
- n) définir des mots ou expressions employés mais non expressément définis dans la présente loi;
- o) prescrire toute question que le ministre estime nécessaire ou souhaitable pour l'application de la présente loi;
- p) prévoir les questions transitoires que le ministre estime nécessaires ou souhaitables relativement à la mise en application des modifications à la présente loi édictées par l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*.

Incorporation continue par renvoi

(2) Un règlement pris en vertu du paragraphe (1) qui incorpore un autre document par renvoi peut prévoir que le renvoi au document vise également les modifications qui y sont apportées après la prise du règlement.

Droits

(3) Le ministre peut, par arrêté, exiger l'acquittement de droits pour le dépôt de lettres patentes, de lettres patentes supplémentaires et d'autres documents, les rapports de recherche, les copies de documents ou de renseignements ou les autres services prévus par la présente loi, en approuver le montant et prévoir la renonciation à ces droits ou leur remboursement, en totalité ou en partie.

Non-application de la Loi de 2006 sur la législation

(4) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas à un arrêté pris par le ministre en vertu du paragraphe (3).

(6) L'alinéa 326.1 (1) p) de la Loi, tel qu'il est édicté par le paragraphe (5), est abrogé.

73 La Loi est modifiée par adjonction des articles suivants :**Méthodes de délivrance**

326.2 Le ministre peut délivrer des lettres patentes, des lettres patentes supplémentaires, des autorisations, des arrêtés, des certificats, des copies certifiées conformes et d'autres documents par tout moyen et peut utiliser ou délivrer des codes de validation ou d'autres systèmes ou méthodes de validation à l'égard de la délivrance.

Exigences établies par le directeur

326.3 (1) Le directeur peut établir des exigences qui :

- a) traitent de la teneur, de la forme et du dépôt des demandes de lettres patentes ou de lettres patentes supplémentaires, des autres demandes, des documents et des renseignements déposés auprès du ministre ou délivrés par ce dernier, ainsi que de la forme et de l'acquittement des droits, et régissent ces aspects;
- b) traitent de la façon de remplir, de présenter et d'accepter les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes, les documents et les renseignements déposés auprès du ministre, de l'acquittement des droits et de l'établissement de la date de réception, et régissent ces aspects;
- c) précisent que les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes, les documents et les renseignements ne peuvent être déposés, et les droits acquittés, que par une personne autorisée par le directeur ou appartenant à une catégorie de personnes autorisées par le directeur;
- d) régissent l'autorisation des personnes visées à l'alinéa c), notamment :
 - (i) en fixant les conditions et exigences auxquelles il faut satisfaire pour devenir une personne autorisée,
 - (ii) en assortissant l'autorisation de conditions, y compris de conditions régissant le dépôt des demandes, documents et renseignements ainsi que l'acquittement des droits,
 - (iii) en exigeant de toute personne qui demande une autorisation qu'elle conclue avec le directeur ou avec la personne qu'il désigne un accord régissant le dépôt des demandes, documents et renseignements;
- e) précisent si les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes et les formulaires approuvés mentionnés à l'article 326.6 et les documents à l'appui doivent être signés et, si oui, lesquels doivent l'être, précisent des exigences ayant trait à leur signature et régissent la forme des signatures, notamment en établissant des règles à l'égard des signatures électroniques;
- f) précisent et régissent les façons de passer les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes et les formulaires approuvés mentionnés à l'article 326.6 et les documents à l'appui autrement qu'en les signant, et établissent des règles à cet égard;
- g) précisent les exigences selon lesquelles les personnes morales qui déposent électroniquement des lettres patentes, des lettres patentes supplémentaires, d'autres demandes et des formulaires approuvés mentionnés à l'article 326.6 doivent conserver à leur siège social une version sous forme imprimée ou électronique de ceux-ci, passés en bonne et due forme et, si un avis du directeur l'exige, fournir au ministre une copie de la version passée dans le délai indiqué dans l'avis;
- h) établissent les délais et les circonstances dans lesquels les demandes de lettres patentes ou de lettres patentes supplémentaires, les autres demandes, les documents et les renseignements sont considérés comme ayant été envoyés au ministre ou reçus par ce dernier, ainsi que le lieu où ils sont considérés comme l'ayant été;
- i) établissent les normes et les exigences technologiques applicables au dépôt auprès du ministre des demandes de lettres patentes ou de lettres patentes supplémentaires et des autres demandes, documents et renseignements sous forme électronique et à l'acquittement des droits sous forme électronique;

- j) précisent le type de copie d'une ordonnance du tribunal ou d'un autre document délivré par le tribunal qui peut être déposée auprès du ministre;
- k) précisent le type de copie d'un document dont la présente loi exige le dépôt auprès du ministre pouvant être déposée à la place des types de copies dont la présente loi autorise le dépôt;
- l) traitent de la délivrance de lettres patentes, de lettres patentes supplémentaires, d'arrêtés, de certificats, d'autorisations et d'autres documents par le ministre, y compris des règles relatives à la délivrance par des moyens électroniques, et régissent ces aspects;
- m) régissent l'attribution de numéros de personne morale en application de l'article 326.5;
- n) régissent les recherches et les moyens de recherche dans les dossiers pour l'application de l'article 6.1.

Catégories

(2) Pour l'application de l'alinéa (1) c), une catégorie peut être définie :

- a) soit en fonction d'un attribut ou d'une combinaison d'attributs;
- b) soit de façon à être constituée d'un membre donné ou à comprendre ou exclure un tel membre.

Non-application de la *Loi de 2006 sur la législation*

(3) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

Incompatibilité

(4) En cas d'incompatibilité, les règlements pris en vertu de la présente loi l'emportent sur les exigences établies en vertu du présent article.

Copie d'avis ou d'autre document acceptée

326.4 (1) Lorsque la présente loi exige l'envoi au ministre d'un avis ou d'un autre document, le ministre peut en accepter une copie, y compris une copie électronique.

Exception

(2) Sauf disposition contraire des règlements, le paragraphe (1) ne s'applique pas aux demandes de lettres patentes ou de lettres patentes supplémentaires ou aux autres demandes déposées sous forme imprimée.

Numéro de personne morale

326.5 (1) Le directeur attribue à chaque personne morale un numéro qui figure comme numéro de personne morale dans les lettres patentes, les lettres patentes supplémentaires et dans tout autre document concernant la personne morale qui est délivré par le ministre.

Idem

(2) Si, par mégarde ou autrement, le directeur a attribué à la personne morale un numéro de personne morale déjà attribué à une autre, il peut, sans tenir d'audience, modifier le numéro attribué à la personne morale. Par la suite, les lettres patentes et lettres patentes supplémentaires délivrées ou les arrêtés pris sous le régime de la présente loi doivent porter le nouveau numéro de la personne morale.

Nouvelle délivrance de lettres patentes de constitution ou de fusion

(3) Si un nouveau numéro de personne morale est attribué à une personne morale en vertu du paragraphe (2), le directeur peut délivrer de nouveau les plus récentes lettres patentes avant été délivrées à la personne morale, qu'il s'agisse des lettres patentes de constitution ou des lettres patentes de fusion. Les lettres patentes nouvellement délivrées doivent porter le nouveau numéro de la personne morale.

Idem

(4) Si, pour une raison quelconque, ont été délivrés des lettres patentes, des lettres patentes supplémentaires ou tout autre document qui indiquent le numéro de la personne morale de façon erronée, le directeur peut, sans tenir d'audience, y substituer des lettres patentes, des lettres patentes supplémentaires ou un autre document rectifiés portant la date du document qu'ils remplacent.

Attribution de numéros de personne morale à des personnes morales existantes

(5) Le directeur peut, s'il l'estime indiqué, attribuer un numéro de personne morale à une personne morale à laquelle n'a pas déjà été attribué de numéro.

Formulaires

326.6 (1) Le directeur peut exiger que les formulaires qu'il approuve soient utilisés à toute fin prévue par la présente loi.

Non-application de la Loi de 2006 sur la législation

(2) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

Refus de délivrance en cas de non-conformité de la personne morale

326.7 Malgré toute disposition de la présente loi autorisant le ministre à délivrer des lettres patentes ou des lettres patentes supplémentaires ou à prendre un arrêté, celui-ci peut refuser de le faire si la personne morale a omis de se conformer à une obligation de dépôt prévue par la *Loi sur les renseignements exigés des personnes morales* ou à une obligation d'enregistrement prévue par la *Loi sur les noms commerciaux* ou qu'elle n'a pas acquitté des droits ou des pénalités prévus par la présente loi, la *Loi sur les renseignements exigés des personnes morales* ou la *Loi sur les noms commerciaux*.

Documents mis à la disposition du public

326.8 Le ministre peut mettre ce qui suit à la disposition du public, notamment en les publiant :

- a) les avis ou les autres documents envoyés par le ministre en application de la présente loi;
- b) les documents dont la présente loi, les règlements ou le directeur exigent l'envoi au ministre en application de la présente loi.

74 La version française de l'article 328 de la Loi est modifiée par remplacement de «ni pris de décret» par «ni pris d'arrêté».

75 Les paragraphes 82 (2) et (3) de l'annexe E de la *Loi de 1998 visant à réduire les formalités administratives* sont abrogés.

MODIFICATIONS CONNEXES

Loi sur l'Institut de recherche agricole de l'Ontario

76 (1) L'article 2 de la *Loi sur l'Institut de recherche agricole de l'Ontario* est modifié par adjonction du paragraphe suivant :

Non-application de la Loi sur les personnes morales

(1.1) La *Loi sur les personnes morales* ne s'applique pas à l'Institut de recherche.

(2) Le paragraphe 2 (1.1) de la Loi, tel qu'il est édicté par le paragraphe (1), est abrogé.

Loi de 2014 sur la garde d'enfants et la petite enfance

77 Le paragraphe 57 (2) de la *Loi de 2014 sur la garde d'enfants et la petite enfance* est abrogé et remplacé par ce qui suit :

Pouvoirs d'une personne physique

(2) Il est entendu que, pour l'application de la présente loi, le gestionnaire de système de services a la capacité et peut exercer les droits, les pouvoirs et les privilèges d'une personne physique que lui confèrent les dispositions suivantes :

1. L'article 9 de la *Loi de 2001 sur les municipalités* ou l'article 7 de la *Loi de 2006 sur la cité de Toronto*, si le gestionnaire de système de services est une municipalité.
2. L'article 126.1 de la *Loi sur les personnes morales*, si le gestionnaire de système de services est un conseil d'administration de district des services sociaux.

Loi de 2011 sur les services de logement

78 (1) Le paragraphe 13 (2) de la *Loi de 2011 sur les services de logement* est abrogé et remplacé par ce qui suit :

Pouvoirs d'une personne physique

(2) Il est entendu que, pour l'application de la présente loi, le gestionnaire de services a la capacité et peut exercer les droits, les pouvoirs et les privilèges d'une personne physique que lui confèrent les dispositions suivantes :

1. L'article 9 de la *Loi de 2001 sur les municipalités* ou l'article 7 de la *Loi de 2006 sur la cité de Toronto*, si le gestionnaire de services est une municipalité gestionnaire de services.
2. L'article 126.1 de la *Loi sur les personnes morales*, si le gestionnaire de services est un conseil gestionnaire de services.

(2) Le paragraphe 15 (1) de la Loi est abrogé et remplacé par ce qui suit :

Précision : pouvoirs des conseils gestionnaires de services

(1) Le paragraphe 4 (1) de la *Loi sur les conseils d'administration de district des services sociaux* n'a pas pour effet d'empêcher un conseil gestionnaire de services d'exercer, à la grandeur de son aire de service pour l'application de la

présente loi, les pouvoirs que lui attribue la présente loi ou la capacité, les droits, les pouvoirs et les privilèges d'une personne physique que lui attribue l'article 126.1 de la *Loi sur les personnes morales*.

Loi sur le Barreau

79 Le paragraphe 6 (1) de la *Loi sur le Barreau* est modifié par remplacement de «L'article 84» par «Les articles 84 et 126.1» au début du paragraphe.

Loi de 2015 sur le Secrétariat de la nation métisse de l'Ontario

80 La disposition 1 du paragraphe 13 (7) de la *Loi de 2015 sur le Secrétariat de la nation métisse de l'Ontario* est abrogée.

Loi sur l'Office de la télécommunication éducative de l'Ontario

81 Le paragraphe 6 (4) de la *Loi sur l'Office de la télécommunication éducative de l'Ontario* est abrogé et remplacé par ce qui suit :

Application de la Loi sur les personnes morales

(4) L'article 126.1 de la *Loi sur les personnes morales* ne s'applique pas à l'Office.

Idem

(4.1) Les alinéas 23 (1) a), b), d), e), g), h), j), k), m), p), q), r), t), u) et v) ainsi que les articles 274 et 275 de la *Loi sur les personnes morales* ne s'appliquent à l'Office qu'avec l'autorisation du lieutenant-gouverneur en conseil.

Loi sur le Marché des produits alimentaires de l'Ontario

82 (1) L'article 4 de la *Loi sur le Marché des produits alimentaires de l'Ontario* est modifié par adjonction du paragraphe suivant :

Application de la Loi sur les personnes morales

(4) Sous réserve de ce que prévoit le paragraphe (3), la *Loi sur les personnes morales* ne s'applique pas à la Commission.

(2) Le paragraphe 4 (4) de la *Loi*, tel qu'il est édicté par le paragraphe (1), est abrogé.

Loi de 2008 sur l'Office des télécommunications éducatives de langue française de l'Ontario

83 Le paragraphe 6 (4) de la *Loi de 2008 sur l'Office des télécommunications éducatives de langue française de l'Ontario* est abrogé et remplacé par ce qui suit :

Application de la Loi sur les personnes morales

(4) L'article 126.1 de la *Loi sur les personnes morales* ne s'applique pas à l'Office.

Idem

(4.1) Les alinéas 23 (1) a), b), d), e), g), h), j), k), m), p), q), r), t), u) et v) ainsi que les articles 274 et 275 de la *Loi sur les personnes morales* ne s'appliquent à l'Office qu'avec l'autorisation du lieutenant-gouverneur en conseil.

Loi sur la Commission de transport Ontario Northland

84 (1) La *Loi sur la Commission de transport Ontario Northland* est modifiée par adjonction de l'article suivant :

Non-application de la Loi sur les personnes morales

2.1 La *Loi sur les personnes morales* ne s'applique pas à la Commission.

(2) L'article 2.1 de la *Loi*, tel qu'il est édicté par le paragraphe (1), est abrogé.

ENTRÉE EN VIGUEUR

Entrée en vigueur

85 (1) Sous réserve des paragraphes (2) à (6), la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) Les paragraphes 3 (2), 4 (2), 64 (3) et 68 (6) entrent en vigueur au 25^e anniversaire du jour de l'entrée en vigueur du paragraphe 3 (1).

(3) Les articles 13 et 23, les paragraphes 28 (1), 31 (1), 35 (1) et 37 (1), l'article 47, les paragraphes 58 (1) et 59 (1), l'article 60, les paragraphes 64 (1) et 68 (2), les articles 74 et 75 et les paragraphes 76 (1), 82 (1) et 84 (1) entrent en vigueur le jour où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.

(4) Les paragraphes 33 (1), 34 (1), 36 (1), 38 (1), 64 (4) et 72 (1) et (2), les articles 77 à 81 et l'article 83 entrent en vigueur le 60^e jour qui suit celui où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.

(5) Les paragraphes 28 (2), 31 (2), 33 (2), 34 (2), 35 (2), 36 (2), 37 (2), 38 (2), 59 (2), 64 (5), 72 (3) et (4), 76 (2), 82 (2) et 84 (2) entrent en vigueur le jour de l'entrée en vigueur du paragraphe 4 (1) de la *Loi de 2010 sur les organisations sans but lucratif*.

(6) Le paragraphe 72 (6) entre en vigueur au troisième anniversaire du jour où la *Loi de 2017* visant à réduire les formalités administratives inutiles reçoit la sanction royale.

ANNEXE 8

MINISTÈRE DES SERVICES GOUVERNEMENTAUX ET DES SERVICES AUX CONSOMMATEURS —
LOI DE 2010 SUR LES ORGANISATIONS SANS BUT LUCRATIF ET MODIFICATIONS CORRÉLATIVES

LOI DE 2010 SUR LES ORGANISATIONS SANS BUT LUCRATIF

1 (1) La définition de «statuts» au paragraphe 1 (1) de la *Loi de 2010 sur les organisations sans but lucratif* est abrogée et remplacée par ce qui suit :

«statuts» Acte qui constitue une organisation ou modifie son acte constitutif, y compris les statuts constitutifs initiaux ou mis à jour, les clauses de modification, les statuts de fusion, les clauses d'arrangement, les statuts de prorogation, les clauses de dissolution, les clauses de réorganisation, les statuts de reconstitution, les lettres patentes initiales ou supplémentaires ou toute loi spéciale. («articles»)

(2) La définition de «personne qui a un lien» au paragraphe 1 (1) de la Loi est abrogée.

(3) Le paragraphe 1 (1) de la Loi est modifié par adjonction des définitions suivantes :

«produire» S'entend notamment de ce qui suit :

- a) l'apposition d'une estampille au recto des statuts ou des autres documents envoyés au directeur;
- b) la création électronique de l'équivalent d'une estampille à l'égard des statuts ou des autres documents envoyés au directeur. («endorse»)

«signature électronique» Marquage ou procédé d'identification qui a les caractéristiques suivantes :

- a) il est créé ou communiqué par un moyen de communication téléphonique ou électronique;
- b) il est joint ou associé à un document ou à d'autres renseignements;
- c) il est apporté ou adopté par la personne qui veut s'associer au document ou aux autres renseignements, selon le cas. («electronic signature»)

(4) La définition de «fondateur» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«fondateur» Personne qui signe des statuts constitutifs ou les autorise d'une autre façon. («incorporator»)

(5) La définition de «ministre» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«ministre» Le membre du Conseil exécutif à qui la responsabilité de l'application de la présente loi est assignée ou transférée en vertu de la *Loi sur le Conseil exécutif*. («Minister»)

(6) L'alinéa b) de la définition de «organisation d'intérêt public» au paragraphe 1 (1) de la Loi est modifié par remplacement de «10 000 \$» par «10 000 \$ ou un autre montant prescrit» dans le passage qui précède le sous-alinéa (i).

(7) La définition de «personne liée» au paragraphe 1 (1) de la Loi est abrogée.

(8) La définition de «moyen de communication téléphonique ou électronique» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«moyen de communication téléphonique ou électronique» Tout moyen de communication qui fait appel au téléphone ou à tout autre moyen électronique ou technologique pour transmettre des renseignements ou des données — appel ou message téléphonique, télécopie, courrier électronique, système automatisé de téléphone à clavier, ordinateur ou réseau informatique. («telephonic or electronic means»)

(9) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Loi que la présente loi remplace

(3) La mention, dans la présente loi ou une autre loi, d'une loi que la *Loi de 2010 sur les organisations sans but lucratif* remplace vaut mention de la *Loi sur les personnes morales* et de toute loi que celle-ci remplace, telles qu'elles s'appliquaient aux personnes morales sans capital-actions qui n'étaient pas régies par la partie V de la *Loi sur les personnes morales* ou par les dispositions que cette partie remplace.

2 (1) L'article 4 de la Loi est modifié par adjonction du paragraphe suivant :

Idem : personnes morales simples

(1.1) Sauf selon ce qui est prescrit, la présente loi ne s'applique pas :

- a) à une personne morale constituée en vertu d'une loi générale ou spéciale du Parlement de l'ancienne province du Haut-Canada en tant que personne morale simple;

- b) à une personne morale constituée en vertu d'une loi générale ou spéciale du Parlement de l'ancienne province du Canada qui a son siège en Ontario et y exerce ses activités et qui a été constituée à des fins relevant de la compétence législative de la province de l'Ontario en tant que personne morale simple;
- c) à une personne morale constituée en vertu d'une loi générale ou spéciale de la Législature en tant que personne morale simple.

(2) Le paragraphe 4 (2) de la Loi est abrogé et remplacé par ce qui suit :

Non-application

(2) La présente loi ne s'applique pas :

- a) aux personnes morales sans capital-actions auxquelles s'applique la *Loi sur les sociétés coopératives* ou la partie V de la *Loi sur les personnes morales*;
- b) aux personnes morales constituées pour la construction et l'exploitation de chemins de fer, de funiculaires ou de tramways.

3 La Loi est modifiée par adjonction de l'article suivant :

Passation des documents

4.1 Les statuts, avis, résolutions, demandes, déclarations ou autres documents qui doivent ou peuvent être passés par plusieurs personnes pour l'application de la présente loi peuvent être passés en plusieurs documents de même forme, dont chacun est passé par une ou plusieurs personnes. Ces documents, lorsqu'ils sont dûment passés par toutes les personnes qui doivent ou peuvent les passer, selon le cas, sont réputés constituer un seul document pour l'application de la présente loi.

4 L'article 5 de la Loi est abrogé et remplacé par ce qui suit :

Incompatibilité

5 (1) Les dispositions d'une autre loi ou de ses règlements qui s'appliquent à une personne morale sans capital-actions l'emportent sur toute disposition incompatible de la présente loi ou d'un règlement qui s'y applique.

Primauté des règles du droit des organismes de bienfaisance

(2) Les règles du droit relatif aux organismes de bienfaisance, qu'il s'agisse d'une disposition d'une autre loi, d'un de ses règlements ou d'une règle ou d'un principe de common law ou d'equity, l'emportent sur toute disposition incompatible de la présente loi ou d'un règlement qui s'applique à une organisation caritative.

Incompatibilité avec l'objet

(3) Une disposition de la présente loi ou d'un règlement ne s'applique pas à une personne morale sans capital-actions dans la mesure où elle est incompatible avec l'objet d'une autre loi ou d'un de ses règlements qui s'y applique.

5 L'article 6 de la Loi est abrogé et remplacé par ce qui suit :

Nomination du directeur

6 Le ministre nomme un directeur pour exercer les fonctions et les pouvoirs que la présente loi attribue au directeur.

6 Le paragraphe 7 (1) de la Loi est abrogé et remplacé par ce qui suit :

Statuts constitutifs

(1) Un ou plusieurs particuliers ou une ou plusieurs personnes morales, ou toute combinaison des uns et des autres, peuvent constituer une organisation en déposant les statuts constitutifs et les autres documents et renseignements exigés auprès du directeur.

7 Le paragraphe 8 (5) de la Loi est modifié par insertion de «à l'égard desquels a été produite une inscription en application de la présente loi» après «des statuts de l'organisation».

8 Le paragraphe 9 (1) de la Loi est abrogé et remplacé par ce qui suit :

Certificat de constitution

(1) À la réception des statuts constitutifs, des documents et renseignements exigés ainsi que des droits exigés, le directeur délivre un certificat de constitution en produisant une inscription à l'égard des statuts conformément à l'article 201. Les statuts portant l'inscription constituent alors le certificat de constitution.

9 (1) La version française du paragraphe 10 (1) de la Loi est modifiée par remplacement de «qui est estampillé ou délivré par le directeur» par «qui est produit ou délivré par le directeur» à la fin du paragraphe.

(2) Le paragraphe 10 (2) de la Loi est abrogé et remplacé par ce qui suit :

Modification du numéro d'organisation

(2) Si, par mégarde ou autrement, le directeur a attribué à l'organisation un numéro d'organisation identique au numéro déjà attribué à une autre organisation, il peut, sans tenir d'audience, modifier le numéro attribué à l'organisation. Par la suite, tout certificat produit pour l'organisation sous le régime de la présente loi doit porter le nouveau numéro de l'organisation.

Nouvelle délivrance de certificat de constitution ou de fusion

(2.1) Si un nouveau numéro d'organisation est attribué à une organisation en vertu du paragraphe (2), le directeur peut délivrer de nouveau le plus récent certificat avant été délivré à l'organisation, qu'il s'agisse du certificat de constitution ou du certificat de fusion. Le certificat nouvellement délivré doit porter le nouveau numéro de l'organisation.

(3) L'article 10 de la Loi est modifié par adjonction du paragraphe suivant :

Attribution de numéros d'organisation à des personnes morales

(4) Le directeur peut, s'il l'estime indiqué, attribuer un numéro d'organisation à une personne morale à laquelle n'a pas déjà été attribué de numéro.

10 (1) Le paragraphe 16 (2) de la Loi est abrogé et remplacé par ce qui suit :

Activités et pouvoirs limités

(2) L'organisation ne doit pas exercer des activités ou des pouvoirs dont ses statuts limitent l'exercice, ni exercer ses pouvoirs d'une manière contraire à ses statuts.

(2) La version anglaise du paragraphe 16 (3) de la Loi est modifiée par remplacement de «that the act or transfer» par «that the act».

11 Le paragraphe 17 (1) de la Loi est modifié par remplacement de «l'alinéa 103 (1) g, j) ou l)» par «l'alinéa 103 (1) g, k) ou l)» à la fin du paragraphe.

12 (1) Le paragraphe 18 (1) de la Loi est modifié par remplacement de «que le directeur a approuvés» par «que le ministère a approuvés» à la fin du paragraphe.

(2) Le paragraphe 18 (2) de la Loi est abrogé et remplacé par ce qui suit :

Publication

(2) Le ministère approuve les règlements administratifs d'organisation standard et les met à la disposition du public sur un site Web désigné par le ministère ou de la manière prescrite.

13 Le paragraphe 24 (8) de la Loi est modifié par remplacement de «que s'il a consenti à occuper ce poste» par «que s'il consent par écrit à occuper ce poste».

14 Le paragraphe 30 (2) de la Loi est modifié par remplacement de «les statuts sont modifiés en conséquence» par «les statuts sont réputés modifiés».

15 Le paragraphe 34 (2) de la Loi est modifié par remplacement de «la majorité du nombre fixe ou minimal d'administrateurs» par «la majorité du nombre fixe d'administrateurs ou le nombre minimal d'administrateurs».

16 Le paragraphe 64 (1) de la Loi est abrogé et remplacé par ce qui suit :

Procurations

(1) Sous réserve du paragraphe (1.1), les membres habiles à voter lors d'une assemblée des membres peuvent, par procuration, nommer un fondé de pouvoir ou un ou plusieurs suppléants pour assister et agir à l'assemblée de la manière, dans les limites et avec les pouvoirs prévus par la procuration.

Restriction

(1.1) Un membre ne peut nommer un fondé de pouvoir que si les statuts ou les règlements administratifs de l'organisation l'autorisent.

Fondé de pouvoir

(1.2) Un fondé de pouvoir n'est pas tenu d'être membre de l'organisation sauf si les statuts ou les règlements administratifs de l'organisation l'exigent.

17 L'article 65 de la Loi est abrogé.

18 Le paragraphe 73 (1) de la Loi est modifié par suppression de «ou du directeur».

19 Le paragraphe 84 (2) de la Loi est modifié par remplacement de «Au moins 21 jours avant chaque assemblée annuelle des membres» par «Au moins 21 jours, ou le nombre de jours prescrit, avant chaque assemblée annuelle des membres» au début du paragraphe.

20 (1) Le paragraphe 97 (1) de la Loi est abrogé et remplacé par ce qui suit :

Conservation des consentements des administrateurs

(1) L'organisation conserve à son siège :

- a) le consentement à agir comme administrateur, rédigé selon le formulaire approuvé :
 - (i) de chaque particulier qui n'est pas un fondateur et que les statuts désignent premier administrateur,
 - (ii) de chaque particulier fondateur que les statuts désignent premier administrateur, si ceux-ci sont déposés auprès du directeur sous forme électronique et que le consentement est exigé par les règlements,
- b) le consentement à agir comme administrateur de chaque particulier élu ou nommé administrateur de l'organisation.

(2) L'article 97 de la Loi est modifié par adjonction du paragraphe suivant :

Copie des consentements

(3) Le directeur peut, à tout moment et au moyen d'un avis, exiger qu'une copie des consentements conservés en application du paragraphe (1) lui soit fournie dans le délai indiqué dans l'avis.

21 (1) L'alinéa 103 (1) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) ajouter, supprimer ou modifier toute restriction quant aux activités ou pouvoirs que l'organisation peut exercer;

(2) Le paragraphe 103 (3) de la Loi est abrogé et remplacé par ce qui suit :

Restriction

(3) Le présent article ne s'applique pas à l'organisation constituée en vertu d'une loi spéciale. Toutefois, une telle organisation peut modifier ses statuts pour changer sa dénomination.

(3) Le paragraphe 103 (4) de la Loi est modifié par suppression de «au moyen de clauses de modification» dans le passage qui précède l'alinéa a).

22 L'article 106 de la Loi est abrogé et remplacé par ce qui suit :

Envoi des clauses de modification au directeur

106 Sous réserve de l'annulation prévue au paragraphe 103 (2), après l'adoption d'une modification des statuts dans le cadre de l'article 103, l'organisation dépose les clauses de modification et les documents et renseignements exigés auprès du directeur.

23 L'article 107 de la Loi est abrogé et remplacé par ce qui suit :

Certificat de modification

107 À la réception des clauses de modification, des documents et renseignements exigés ainsi que des droits exigés, le directeur délivre un certificat de modification en produisant une inscription à l'égard des clauses conformément à l'article 201. Les clauses portant l'inscription constituent alors le certificat de modification.

24 (1) Les paragraphes 109 (1), (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Mise à jour des statuts

(1) Les administrateurs peuvent à tout moment mettre à jour les statuts constitutifs tels qu'ils sont modifiés et doivent le faire lorsque le directeur le leur ordonne.

Dépôt auprès du directeur

(2) L'organisation dépose ses statuts constitutifs mis à jour et les documents et renseignements exigés auprès du directeur.

Certificat à jour

(3) À la réception des statuts constitutifs mis à jour, des documents et renseignements exigés ainsi que des droits exigés, le directeur délivre un certificat de constitution à jour en produisant une inscription à l'égard des statuts conformément à l'article 201. Ces statuts constituent alors le certificat de constitution à jour.

(2) L'article 109 de la Loi est modifié par adjonction du paragraphe suivant :

Exception

(5) Le présent article ne s'applique pas à une organisation constituée en vertu d'une loi spéciale.

25 L'article 110 de la Loi est modifié par adjonction du paragraphe suivant :

Exception

(4) Le présent article ne s'applique pas à une organisation constituée en vertu d'une loi spéciale.

26 (1) Le paragraphe 112 (1) de la Loi est abrogé et remplacé par ce qui suit :

Statuts de fusion

(1) Sous réserve du paragraphe 111 (6), après l'adoption de la convention de fusion visée à l'article 111, les statuts de fusion et les documents et renseignements exigés sont déposés auprès du directeur.

(2) Le paragraphe 112 (2) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) par ce qui suit :

Déclarations annexées

(2) Les statuts de fusion doivent comporter en annexe la déclaration de l'un des administrateurs ou dirigeants de chaque organisation fusionnante portant ce qui suit :

(3) Le paragraphe 112 (4) de la Loi est abrogé et remplacé par ce qui suit :

Certificat de fusion

(4) À la réception des statuts de fusion, des déclarations exigées par le paragraphe (2), des autres documents et renseignements exigés ainsi que des droits exigés, le directeur délivre un certificat de fusion en produisant une inscription à l'égard des statuts conformément à l'article 201. Les statuts portant l'inscription constituent alors le certificat de fusion.

27 (1) Les paragraphes 114 (4) et (5) de la Loi sont abrogés et remplacés par ce qui suit :

Statuts de prorogation

(4) La personne morale qui souhaite demander le certificat visé au paragraphe (1) dépose les statuts de prorogation et les documents et renseignements exigés auprès du directeur.

Certificat de prorogation

(5) À la réception des statuts de prorogation, des documents et renseignements exigés ainsi que des droits exigés, le directeur peut, aux conditions et sous réserve des restrictions qu'il estime indiquées, délivrer un certificat de prorogation en produisant une inscription à l'égard des statuts conformément à l'article 201. Les statuts portant l'inscription constituent alors le certificat de prorogation.

(2) Le paragraphe 114 (7) de la Loi est abrogé et remplacé par ce qui suit :

Avis de prorogation

(7) Le directeur peut aviser de la délivrance d'un certificat de prorogation le fonctionnaire ou l'administration compétents de l'autorité législative qui autorise la prorogation sous le régime de la présente loi.

28 (1) L'article 115 de la Loi est abrogé et remplacé par ce qui suit :

Prorogation d'autres personnes morales de l'Ontario

115 (1) Les définitions qui suivent s'appliquent au présent article.

«charte» S'entend notamment :

- a) du texte de la loi constitutive et de ses modifications;
- b) des lettres patentes, initiales ou supplémentaires, et des certificats de constitution et de modification délivrés en vertu d'une autre loi que la présente loi ou une loi qu'elle remplace. («charter»)

«résolution extraordinaire» S'entend au sens du paragraphe 1 (1). Toutefois, les mentions d'une organisation qui figurent dans la définition valent mention d'une personne morale. Lorsqu'elles s'appliquent à une personne morale avec capital-actions, les mentions dans la définition d'un membre ou des membres d'une organisation valent mention d'un actionnaire ou des actionnaires de la personne morale. («special resolution»)

Résolution extraordinaire

(2) Les actionnaires ou les membres de la personne morale constituée ou prorogée sous le régime d'une autre loi que la présente loi ou une loi qu'elle remplace qui sont habiles à voter aux assemblées annuelles des actionnaires ou des membres peuvent, par résolution extraordinaire, autoriser les administrateurs de la personne morale à demander au directeur un certificat de prorogation sous le régime de la présente loi.

Modification de la charte

(3) La résolution visée au paragraphe (2) doit également :

- a) si la personne morale a autorisé la présence dans sa charte de dispositions relatives au capital-actions et de dispositions connexes, prévoir la suppression de ces dispositions;
- b) si la personne morale a émis des actions, prévoir l'annulation de toutes ces actions à la délivrance d'un certificat de prorogation en vertu du paragraphe (9).

Idem : disposition facultative

(4) La résolution visée au paragraphe (2) peut également apporter à la charte de la personne morale toutes les modifications qu'une organisation constituée en vertu de la présente loi peut apporter à ses statuts.

Modification des droits afférents à une catégorie ou à un groupe : personne morale sans capital-actions

(5) Malgré le paragraphe (4), les membres d'une personne morale sans capital-actions ne peuvent pas, par la résolution visée au paragraphe (2), apporter des modifications analogues à celles visées au paragraphe 105 (1) et touchant une catégorie ou un groupe de membres, sauf dans l'un ou l'autre des cas suivants :

- a) la charte de la personne morale, ou la loi qui régit celle-ci s'il ne s'agit pas de sa charte, permet d'apporter des modifications analogues à celles visées à l'alinéa 105 (1) a) ou e);
- b) les membres de la catégorie ou du groupe approuvent la modification conformément à l'article 105.

Autorisation additionnelle : personne morale avec capital-actions

(6) Dans le cas d'une personne morale avec capital-actions, la résolution visée au paragraphe (2) doit également être autorisée :

- a) conformément aux exigences applicables de la Loi qui régit la personne morale;
- b) à défaut d'exigences applicables dans la Loi qui régit la personne morale, à l'unanimité par les actionnaires habiles à voter, au lieu d'être autorisée aux deux tiers au moins des voix exprimées lors d'une assemblée extraordinaire.

Acquittement du passif

(7) Malgré le paragraphe (2) et l'alinéa 2.1 (1) a) de la *Loi sur les personnes morales*, les actionnaires d'une personne morale avec capital-actions ne peuvent pas l'autoriser à demander au directeur un certificat de prorogation sous le régime de la présente loi dans le cas où, une fois prorogée, elle ne sera pas en mesure d'acquitter son passif à échéance.

Statuts de prorogation

(8) La personne morale qui souhaite demander le certificat visé au paragraphe (2) dépose les statuts de prorogation et les documents et renseignements exigés auprès du directeur.

Certificat de prorogation

(9) À la réception des statuts de prorogation, des documents et renseignements exigés ainsi que des droits exigés, le directeur peut, aux conditions et sous réserve des restrictions qu'il estime indiquées, délivrer un certificat de prorogation en produisant une inscription à l'égard des statuts conformément à l'article 201. Les statuts portant l'inscription constituent alors le certificat de prorogation.

Maintien des droits

(10) À compter de la date de prorogation de la personne morale sous forme d'organisation régie par la présente loi :

- a) l'organisation continue d'être propriétaire des biens de cette personne morale;
- b) l'organisation constitue d'être responsable des obligations de cette personne morale;
- c) il n'est pas porté atteinte aux causes d'actions, demandes ou responsabilités existantes;
- d) l'organisation remplace la personne morale dans les enquêtes ou les poursuites civiles, pénales, administratives ou autres engagées par ou contre celle-ci;
- e) toute décision judiciaire ou quasi judiciaire rendue en faveur de la personne morale ou contre elle est exécutoire à l'égard de l'organisation.

(2) Le paragraphe 115 (7) de la Loi, tel qu'il est réédité par le paragraphe (1), est modifié par suppression de «et l'alinéa 2.1 (1) a) de la *Loi sur les personnes morales*».

29 (1) Les paragraphes 116 (4) et (5) de la Loi sont abrogés et remplacés par ce qui suit :

Dépôt de la demande auprès du directeur

(4) Si les membres approuvent la prorogation par résolution extraordinaire, l'organisation peut déposer auprès du directeur sa demande d'autorisation de prorogation et les documents et renseignements exigés.

Autorisation du directeur

(5) À la réception de la demande, des documents et renseignements exigés ainsi que des droits exigés, le directeur peut produire une autorisation à l'égard de la demande conformément aux règlements et aux exigences du directeur qui s'appliquent s'il est convaincu que la demande n'est pas interdite par le paragraphe (10). La demande portant l'autorisation constitue alors l'autorisation, par le directeur, de la demande de prorogation.

(2) La version française du paragraphe 116 (6) de la Loi est modifiée par remplacement de «la date de l'apposition d'une estampille sur la demande» par «la date de l'inscription produite à l'égard de la demande».

(3) L'article 116 de la Loi est modifié par adjonction du paragraphe suivant :

Avis tenant lieu de dépôt

(7.1) Si le fonctionnaire ou l'administration compétents de l'autre autorité législative l'avise qu'il a délivré un acte de prorogation à l'organisation, le directeur peut, s'il l'estime indiqué et s'il est convaincu que l'organisation a satisfait aux exigences prévues par le présent article, aviser celle-ci qu'elle est réputée s'être conformée au paragraphe (7).

30 (1) Le paragraphe 117 (1) de la Loi est modifié par insertion de «ou d'une loi qu'elle remplace, à l'exception d'une organisation caritative,» après «constituée en vertu de la présente loi».

(2) Les paragraphes 117 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Dépôt de la demande auprès du directeur

(2) L'organisation qui souhaite demander au directeur une autorisation de prorogation en vertu du paragraphe (1) dépose auprès de lui la demande et les documents et renseignements exigés.

Autorisation du directeur

(3) À la réception de la demande, des documents et renseignements exigés ainsi que des droits exigés, le directeur peut produire une autorisation à l'égard de la demande conformément aux règlements et aux exigences du directeur qui s'appliquent. Cette demande constitue alors l'autorisation, par le directeur, de la demande de prorogation.

(3) La version française du paragraphe 117 (4) de la Loi est modifiée par remplacement de «la date de l'apposition d'une estampille sur la demande» par «la date de l'inscription produite à l'égard de la demande».

31 (1) Les paragraphes 119 (4) et (5) de la Loi sont abrogés et remplacés par ce qui suit :

Clauses de réorganisation

(4) Après que l'ordonnance visée au paragraphe (1) a été rendue, l'organisation dépose les clauses de réorganisation et les documents et renseignements exigés auprès du directeur.

Certificat de modification

(5) À la réception des clauses de réorganisation, des documents et renseignements exigés ainsi que des droits exigés, le directeur délivre un certificat de modification en produisant une inscription à l'égard des clauses de réorganisation conformément à l'article 201, auquel cas les statuts constitutifs sont modifiés en conséquence. Les clauses portant l'inscription constituent alors le certificat de modification.

(2) L'article 119 de la Loi est modifié par adjonction du paragraphe suivant :

Exception

(7) Le présent article ne s'applique pas à une organisation constituée en vertu d'une loi spéciale.

32 (1) L'article 120 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(4.1) L'organisation qui présente une requête au tribunal en vertu du paragraphe (4) en avise le directeur; celui-ci a le droit de comparaître et d'être entendu en personne ou par l'intermédiaire d'un avocat.

(2) Les paragraphes 120 (6), (7) et (8) de la Loi sont abrogés et remplacés par ce qui suit :

Clauses d'arrangement

(6) Après que l'ordonnance visée à l'alinéa (5) d) a été rendue, l'organisation dépose les clauses d'arrangement et les documents et renseignements exigés auprès du directeur.

Certificat d'arrangement

(7) À la réception des clauses d'arrangement, des documents et renseignements exigés ainsi que des droits exigés, le directeur délivre un certificat d'arrangement en produisant une inscription à l'égard des clauses d'arrangement conformément à l'article 201. Les clauses portant l'inscription constituent alors le certificat d'arrangement.

Date d'effet des clauses d'arrangement

(8) Les clauses d'arrangement prennent effet à la date précisée dans le certificat d'arrangement.

Exception

(9) Le présent article ne s'applique pas à une organisation constituée en vertu d'une loi spéciale.

33 Le paragraphe 123 (4) de la Loi est abrogé et remplacé par ce qui suit :

Publication de l'avis

(4) L'organisation dépose un avis, rédigé selon le formulaire approuvé, de la résolution réclamant sa liquidation volontaire auprès du directeur dans les 10 jours qui suivent l'adoption de la résolution.

34 (1) Le paragraphe 134 (2) de la Loi est modifié par suppression de «et il le publie sans délai dans la *Gazette de l'Ontario*» à la fin du paragraphe.

(2) Le paragraphe 134 (6) de la Loi est abrogé et remplacé par ce qui suit :

Dépôt d'une copie de l'ordonnance de prorogation du délai

(6) Dans les 10 jours après qu'une ordonnance a été rendue en vertu du paragraphe (4) ou (5), l'auteur de la requête dont elle découle dépose auprès du directeur une copie certifiée conforme de l'ordonnance, une copie notariée de la copie certifiée conforme ou tout autre type de copie de l'ordonnance autorisée par le directeur.

35 Le paragraphe 139 (4) de la Loi est modifié par suppression de «et le publie dans la *Gazette de l'Ontario* dans les 20 jours de celle-ci» à la fin du paragraphe.

36 Le paragraphe 147 (2) de la Loi est abrogé et remplacé par ce qui suit :

Dépôt d'une copie de l'ordonnance de dissolution

(2) Dans les 10 jours après qu'une ordonnance a été rendue, l'auteur de la requête dont elle découle dépose auprès du directeur une copie certifiée conforme de l'ordonnance, une copie notariée de la copie certifiée conforme ou tout autre type de copie de l'ordonnance autorisée par le directeur.

37 (1) Les sous-sous-alinéas 150 (1) b) (i) (A) et (B) de la Loi sont abrogés et remplacés par ce qui suit :

(A) s'il s'agit d'une organisation caritative, à une personne morale canadienne qui est un organisme de bienfaisance enregistré en vertu de la *Loi de l'impôt sur le revenu* (Canada) ayant des objets semblables, à la Couronne du chef de l'Ontario, à la Couronne du chef du Canada, à un mandataire de l'une ou l'autre de ces Couronnes ou à une municipalité au Canada,

(B) s'il s'agit d'une organisation non caritative, à une autre organisation d'intérêt public ayant des objets semblables, à une personne morale canadienne qui est un organisme de bienfaisance enregistré en vertu de la *Loi de l'impôt sur le revenu* (Canada) ayant des objets semblables, à la Couronne du chef de l'Ontario, à la Couronne du chef du Canada, à un mandataire de l'une ou l'autre de ces Couronnes ou à une municipalité au Canada.

(2) L'article 150 de la Loi est modifié par adjonction du paragraphe suivant :

Répartition réputée faite conformément à la Loi

(1.1) Si le reliquat des biens d'une organisation qui n'est pas une organisation d'intérêt public est reparti, en cas de liquidation, conformément à un règlement administratif visé à la disposition 5 du paragraphe 207 (3), les biens sont réputés avoir été répartis conformément aux statuts de l'organisation pour l'application du sous-sous-alinéa (1) b) (ii) (A).

38 (1) Les sous-sous-alinéas 167 (1) d) (i) (A) et (B) de la Loi sont abrogés et remplacés par ce qui suit :

(A) s'il s'agit d'une organisation caritative, à une personne morale canadienne qui est un organisme de bienfaisance enregistré en vertu de la *Loi de l'impôt sur le revenu* (Canada) ayant des objets semblables, à la Couronne du chef de l'Ontario, à la Couronne du chef du Canada, à un mandataire de l'une ou l'autre de ces Couronnes ou à une municipalité au Canada,

(B) s'il s'agit d'une organisation non caritative, à une autre organisation d'intérêt public ayant des objets semblables, à une personne morale canadienne qui est un organisme de bienfaisance enregistré en vertu de la *Loi de l'impôt sur le revenu* (Canada) ayant des objets semblables, à la Couronne du chef de l'Ontario, à la Couronne du chef du Canada, à un mandataire de l'une ou l'autre de ces Couronnes ou à une municipalité au Canada,

(2) L'article 167 de la Loi est modifié par adjonction des paragraphes suivants :

Statuts réputés modifiés : organisations caritatives

(5.1) Si, le jour de l'entrée en vigueur du présent article, une organisation caritative n'a pas dans ses statuts une disposition valide concernant la répartition du reliquat de ses biens en cas de dissolution dont le contenu est conforme au sous-sous-alinéa (1) d) (ii) (A), l'organisation est réputée avoir ce jour-là déposé des clauses de modification ajoutant une telle disposition à ses statuts.

Idem : organisations d'intérêt public non caritatives

(5.2) Si, le jour où une organisation non caritative qui est une organisation d'intérêt public pour l'application du présent article dépose des clauses de dissolution, l'organisation n'a pas dans ses statuts une disposition valide concernant la

répartition du reliquat de ses biens en cas de dissolution dont le contenu est conforme au sous-sous-alinéa (1) d) (i) (B). L'organisation est réputée avoir ce jour-là déposé des clauses de modification ajoutant une telle disposition à ses statuts.

Répartition réputée faite conformément à la Loi

(5.3) Si le reliquat des biens d'une organisation qui n'est pas une organisation d'intérêt public est réparti, en cas de dissolution, conformément à un règlement administratif visé à la disposition 5 du paragraphe 207 (3), les biens sont réputés avoir été répartis conformément aux statuts de l'organisation pour l'application du sous-sous-alinéa (1) d) (ii) (A).

39 L'article 168 de la Loi est abrogé et remplacé par ce qui suit :

Certificat de dissolution

168 (1) À la réception des clauses de dissolution, des documents et renseignements exigés ainsi que des droits exigés, le directeur délivre un certificat de dissolution en produisant une inscription à l'égard des clauses conformément à l'article 201. Les clauses portant l'inscription constituent alors le certificat de dissolution.

Exception : propriétaire enregistré d'un bien-fonds

(2) Malgré le paragraphe (1), le directeur peut refuser de produire une inscription à l'égard des clauses de dissolution s'il apprend que l'organisation est propriétaire enregistré d'un bien-fonds en Ontario.

40 L'article 169 de la Loi est abrogé et remplacé par ce qui suit :

Annulation du certificat par le directeur

169 (1) Après avoir donné à l'organisation l'occasion d'être entendue, le directeur peut, si un motif suffisant lui est présenté, ordonner l'annulation, aux conditions qu'il estime indiquées, du certificat de constitution de l'organisation, de tout autre certificat qui lui a été délivré en vertu de la présente loi ou d'une loi qu'elle remplace, de ses lettres patentes, de ses lettres patentes supplémentaires, de tout autre acte par lequel l'organisation a été constituée en vertu d'une loi que la présente loi remplace ou de toute modification apportée à un tel acte, ou d'un arrêté pris en vertu d'une loi que la présente loi remplace acceptant l'abandon de sa charte ou sa demande de dissolution ou reconstituant l'organisation.

Idem

(2) Le directeur peut donner un ordre en vertu du paragraphe (1) malgré l'imposition d'autres sanctions au même motif et outre les droits que lui confère la présente loi ou une autre loi.

Audience écrite

(3) L'audience visée au paragraphe (1) se tient par écrit, conformément aux règles établies par le directeur en application de la *Loi sur l'exercice des compétences légales*.

Date de dissolution

(4) En cas d'annulation, en vertu du paragraphe (1), du certificat de constitution, des lettres patentes ou d'un autre acte par lequel l'organisation a été constituée en vertu d'une loi que la présente loi remplace, l'organisation est dissoute à la date fixée dans l'ordre donné en vertu du présent article.

Date d'effet

(5) En cas d'annulation, en vertu du paragraphe (1), de tout autre certificat, des lettres patentes supplémentaires, des modifications apportées à un acte par lequel l'organisation a été constituée en vertu d'une loi que la présente loi remplace ou de tout arrêté, l'effet produit par la délivrance du certificat, des lettres patentes supplémentaires, de la modification ou de l'arrêté cesse à compter de la date fixée dans l'ordre donné en vertu du présent article.

41 (1) Le paragraphe 170 (1) de la Loi est modifié par remplacement de «ou publié une seule fois dans la *Gazette de l'Ontario*» par «conformément à l'article 197 ou publié conformément aux règlements».

(2) L'article 170 de la Loi est modifié par adjonction des paragraphes suivants :

Idem

(2.0.1) Le directeur peut donner un ordre révoquant l'ordre de dissolution donné en vertu du paragraphe (2) si, selon le cas :

- a) il n'existait aucun pouvoir de donner l'ordre de dissolution;
- b) une erreur a été commise à l'égard de l'ordre de dissolution;
- c) les circonstances prescrites existent.

Effet de l'ordre donné en vertu du par. (2.0.1)

(2.3.1) Si un ordre est donné en vertu du paragraphe (2.0.1) :

- a) il prend effet à la date de l'ordre de dissolution;

- b) l'organisation est réputée à toutes fins ne jamais avoir été dissoute, sous réserve des droits acquis, le cas échéant, par toute personne durant la période de dissolution.

(3) Les paragraphes 170 (5) et (6) de la Loi sont abrogés et remplacés par ce qui suit :

Certificat de reconstitution

(5) À la réception des statuts de reconstitution, des documents et renseignements exigés ainsi que des droits exigés, le directeur, sous réserve du paragraphe (3), délivre un certificat de reconstitution en produisant une inscription à l'égard des statuts conformément à l'article 201. Les statuts portant l'inscription constituent alors le certificat de reconstitution.

Définition

(6) La définition qui suit s'applique au présent article.

«intéressé» S'entend notamment d'un administrateur, d'un dirigeant ou d'un membre de l'organisation.

42 La Loi est modifiée par adjonction de l'article suivant :

Refus de production en cas de non-conformité de l'organisation

188.1 Malgré toute disposition de la présente loi exigeant la production d'un certificat ou d'une autorisation par le directeur, ce dernier peut refuser de le faire si l'organisation a omis de se conformer à une obligation de dépôt prévue par la *Loi sur les renseignements exigés des personnes morales* ou à une obligation d'enregistrement prévue par la *Loi sur les noms commerciaux* ou qu'elle n'a pas acquitté des droits ou des peines prévus par la présente loi, la *Loi sur les renseignements exigés des personnes morales* ou la *Loi sur les noms commerciaux*.

43 La version française de la disposition 1 du paragraphe 190 (1) de la Loi est abrogée et remplacée par ce qui suit :

1. Refuser de délivrer un certificat en produisant une inscription à l'égard des statuts ou d'un autre document dont la présente loi exige le dépôt auprès du directeur.

44 L'article 197 de la Loi est modifié par adjonction des paragraphes suivants :

Envoi par le directeur

(2) Les avis ou autres documents dont la présente loi ou les règlements exigent ou autorisent l'envoi par le directeur peuvent être envoyés par courrier ordinaire ou par un autre moyen, notamment par courrier recommandé ou certifié ou par messenger port payé, à l'adresse visée au présent article ou à l'article 196, si leur envoi est consigné.

Idem

(3) Les avis ou autres documents visés au paragraphe (2) peuvent être envoyés par un moyen de communication téléphonique ou électronique si leur envoi est consigné. Il est entendu que l'envoi d'un avis ou d'un autre document par un moyen de communication téléphonique ou électronique n'exige pas le consentement du destinataire prévu.

Envoi réputé reçu

(4) Les avis ou autres documents envoyés par le directeur par un moyen mentionné au paragraphe (2) sont réputés avoir été reçus par le destinataire prévu le premier en date des jours suivants :

- a) le jour où le destinataire prévu les reçoit;
- b) le cinquième jour ouvrable qui suit leur envoi.

Idem

(5) Les avis ou autres documents envoyés par le directeur par un moyen mentionné au paragraphe (3) sont réputés avoir été reçus par le destinataire prévu le premier en date des jours suivants :

- a) le jour où le destinataire prévu les reçoit;
- b) le premier jour ouvrable qui suit l'envoi de la transmission par le directeur.

45 L'article 200 de la Loi est abrogé et remplacé par ce qui suit :

Recherche dans les documents conservés par le directeur

200 (1) Sur paiement des droits exigés, toute personne a le droit, par un moyen de recherche approuvé par le directeur, de rechercher tout document que la présente loi ou les règlements exigent de déposer auprès du directeur ou de lui remettre, et d'en obtenir des copies.

Copies

(2) À la réception des droits exigés, le directeur fournit à toute personne une copie ou une copie certifiée conforme des documents que la présente loi ou les règlements exigent de déposer auprès du directeur ou de lui remettre.

Documents privilégiés

(3) Les paragraphes (1) et (2) ne s'appliquent pas à l'égard des rapports d'inspecteur qui sont déposés auprès du directeur ou qui lui sont donnés en application du paragraphe 174 (6) et dont une ordonnance du tribunal interdit la publication.

46 L'article 201 de la Loi est abrogé et remplacé par ce qui suit :**Exigences applicables aux statuts déposés auprès du directeur**

201 (1) Sauf disposition contraire de la présente loi, des règlements ou des exigences du directeur, lorsque la présente loi permet ou exige le dépôt de statuts auprès du directeur :

- a) si les statuts sont déposés auprès du directeur sous forme imprimée :
 - (i) un exemplaire des statuts d'origine doit être déposé selon le formulaire approuvé,
 - (ii) l'exemplaire des statuts d'origine visé au sous-alinéa (i) doit être signé par deux administrateurs ou dirigeants de l'organisation ou, s'il s'agit de statuts constitutifs, par tous ses fondateurs;
- b) si les statuts sont déposés auprès du directeur sous forme électronique :
 - (i) les statuts doivent être déposés sous une forme prescrite par le ministre ou exigée par le directeur,
 - (ii) les statuts visés au sous-alinéa (i) doivent satisfaire aux exigences en matière de signature ou d'autorisation établies par le directeur en vertu du paragraphe 210.2 (1).

Fonctions du directeur

(2) À la réception des statuts rédigés conformément à l'alinéa (1) a) ou b), des autres documents et renseignements exigés ainsi que des droits exigés, le directeur, sauf disposition contraire de la présente loi, des règlements ou des exigences du directeur et sous réserve du pouvoir discrétionnaire que lui confère la présente loi et du paragraphe (1) :

- a) produit un certificat à l'égard des statuts indiquant le jour, le mois et l'année de la production, ainsi que le numéro d'organisation;
- b) dépose les statuts à l'égard desquels le certificat a été produit dans les dossiers tenus en application de l'article 203;
- c) envoie ou fournit autrement à l'organisation ou à son représentant une copie des statuts à l'égard desquels le certificat a été produit.

Date des certificats

(3) La date de tout certificat délivré en application du paragraphe (2), sauf le certificat d'arrangement, doit être :

- a) soit celle du jour où le directeur reçoit ce qui suit :
 - (i) les statuts, rédigés conformément à l'alinéa (1) a) ou b),
 - (ii) tous les autres documents exigés, passés conformément à la présente loi, aux règlements et aux exigences du directeur,
 - (iii) tous les autres renseignements exigés,
 - (iv) les droits exigés;
- b) soit une date ultérieure que le directeur juge acceptable et qui est précisée par la personne ayant présenté les statuts ou par le tribunal.

Date d'effet des certificats

(4) Les certificats délivrés en application du présent article prennent effet à la date qui y est indiquée, même si les mesures que doit prendre le directeur en application de la présente loi relativement à leur délivrance sont prises à une date ultérieure.

47 (1) Les paragraphes 202 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :**Erreur dans le certificat**

(1) En cas d'erreur dans tout certificat ou autre document délivré ou produit en vertu de la présente loi, ou dans des lettres patentes, lettres patentes supplémentaires ou tout autre document délivré ou produit en vertu d'une loi que la présente loi remplace, ou dans des statuts ou autres documents à l'égard desquels un certificat ou un autre document a été produit ou délivré :

- a) soit l'organisation, ses administrateurs ou ses membres peuvent demander au directeur un certificat ou un autre document rectifié et, à la demande de ce dernier et dans le délai qu'il précise, ils doivent lui remettre le certificat ou l'autre document ainsi que les statuts ou les documents auxquels il se rapporte;

- b) soit le directeur peut aviser l'organisation qu'un certificat ou un autre document rectifié pourrait être exigé et l'organisation doit, à la demande du directeur et dans le délai qu'il précise, lui remettre le certificat ou l'autre document ainsi que les statuts ou les documents auxquels il se rapporte.

(2) Le paragraphe 202 (3) de la Loi est abrogé et remplacé par ce qui suit :

Certificat rectifié

(3) Après avoir donné à l'organisation l'occasion d'être entendue à l'égard d'une erreur visée au paragraphe (1), le directeur produit le certificat ou l'autre document rectifié pertinent s'il l'estime indiqué et qu'il est convaincu que l'organisation a pris les mesures qu'il a exigées.

(3) La version française du paragraphe 202 (4) de la Loi est modifiée par remplacement de «qui est estampillé» par «qui est produit».

(4) L'article 202 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(4.1) Si une rectification est faite à l'égard de la date du certificat, le certificat rectifié doit porter la date rectifiée.

48 L'article 203 de la Loi est modifié par adjonction des paragraphes suivants :

Documents mis à la disposition du public

(4) Le directeur peut mettre ce qui suit à la disposition du public, notamment en les publiant :

- a) les avis ou les autres documents envoyés par le directeur en application de la présente loi;
- b) les documents dont la présente loi, les règlements ou le directeur exigent l'envoi au directeur en application de la présente loi, sauf les documents visés au paragraphe 174 (6) dont une ordonnance du tribunal interdit la publication.

Impossibilité de recevoir des dépôts dans le système électronique

(5) Malgré tout règlement pris en vertu de la disposition 4 du paragraphe 208 (1), s'il est d'avis que, pour une raison quelconque, il est impossible de recevoir des statuts, des demandes et d'autres documents et renseignements sous forme électronique dans un système électronique tenu en application du paragraphe (1) du présent article, le directeur peut exiger qu'ils soient déposés sous forme imprimée seulement, conformément aux exigences éventuelles du directeur, ou sous une autre forme électronique qu'il approuve.

Idem — Conservation des dépôts et des demandes jusqu'à ce que le système soit en service

(6) S'il est d'avis que, pour une raison quelconque, il est impossible de produire des inscriptions à l'égard des statuts ou des demandes ou de délivrer d'autres documents au moyen d'un système électronique tenu en application du paragraphe (1), le directeur peut conserver les statuts, demandes et autres documents qui ont été déposés jusqu'à ce qu'il puisse les délivrer ou produire une inscription à leur égard conformément à la présente loi, aux règlements et aux exigences éventuelles du directeur.

Idem — Recherches

(7) S'il est d'avis que, pour une raison quelconque, il est impossible d'effectuer des recherches dans un système électronique tenu en application du paragraphe (1), le directeur peut conserver les demandes de recherches qui ont été déposées jusqu'à ce que les recherches puissent être effectuées.

49 (1) Le paragraphe 204 (1) de la Loi est modifié par insertion de «, y compris une copie électronique,» après «accepter une copie».

(2) Le paragraphe 204 (2) de la Loi est abrogé et remplacé par ce qui suit :

Exception

(2) Sauf disposition contraire des règlements, le paragraphe (1) ne s'applique pas aux statuts ou aux demandes déposés sous forme imprimée.

50 La Loi est modifiée par adjonction des articles suivants :

Dépôt par télécopie

204.1 Malgré tout règlement pris en vertu de l'article 208, les statuts, les demandes et les autres documents ne peuvent être déposés par télécopie qu'avec le consentement du directeur.

Primauté de la version électronique

204.2 (1) Si des statuts ou une demande sont déposés auprès du directeur sous forme électronique, en cas d'incompatibilité la version électronique des statuts à l'égard desquels a été produit un certificat en application de la présente loi et qui est enregistrée dans un système électronique tenu en application de l'article 208, ou la version électronique de la demande à l'égard de laquelle a été produite une autorisation en vertu de l'article 116 ou 117 et qui est enregistrée dans un système

électronique tenu en application de l'article 203, ou l'imprimé de la version électronique applicable, l'emporte sur toute autre version existante des statuts ou de la demande, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du directeur.

Idem : documents prescrits

(2) Si un document prescrit est déposé sous forme électronique, en cas d'incompatibilité, la version électronique du document enregistrée dans un système électronique tenu en application de l'article 203, ou l'imprimé de la version électronique, l'emporte sur toute autre version existante du document, que cette autre version ait ou non été passée conformément à la présente loi, aux règlements et aux exigences du directeur.

51 L'article 206 de la Loi est abrogé et remplacé par ce qui suit :

Délégation des fonctions et pouvoirs du directeur

206 Le directeur peut déléguer à quiconque la totalité ou une partie des fonctions et pouvoirs que lui attribue la présente loi, sous réserve des restrictions énoncées dans l'acte de délégation.

Certificats du directeur

206.1 (1) Si la présente loi oblige ou autorise le directeur à produire ou à délivrer un certificat, y compris une attestation de faits, ou une copie certifiée conforme d'un document, le certificat ou la copie doit porter la signature du directeur ou d'un fonctionnaire employé aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* et désigné par les règlements.

Preuve

(2) Le certificat ou la copie certifiée conforme visé au paragraphe (1) constitue la preuve, en l'absence de preuve contraire, des faits qui y sont attestés dans toute enquête ou dans toute action ou instance civile, pénale, administrative ou autre, sans que la comparaison personnelle soit nécessaire pour prouver l'authenticité de la signature ou la qualité officielle du présumé signataire.

Reproduction de la signature

(3) Pour l'application du présent article, la signature du directeur ou d'un fonctionnaire peut être reproduite mécaniquement, notamment sous forme imprimée ou électronique.

Accords avec des personnes autorisées

206.2 (1) La définition qui suit s'applique au présent article.

«services de dépôt pour les entreprises» S'entend notamment des fonctions et pouvoirs du directeur et des services connexes.

Accords pour la fourniture de services de dépôt pour les entreprises

(2) Le ministre ou une personne qu'il désigne peut, au nom de la Couronne du chef de l'Ontario, conclure un ou plusieurs accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du directeur ou d'un autre représentant du gouvernement.

Pas un mandataire de la Couronne

(3) Sauf disposition contraire d'un règlement, la personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises n'est à aucune fin un mandataire de la Couronne, malgré la *Loi sur les organismes de la Couronne*.

Utilisation des dossiers et renseignements

(4) L'accord conclu en vertu du paragraphe (2) peut aussi comprendre des dispositions concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Aucune incidence de l'accord sur le pouvoir discrétionnaire de déléguer

(5) L'accord conclu en vertu du paragraphe (2) n'a pas d'incidence sur le pouvoir qu'a le directeur de déléguer des fonctions ou pouvoirs en vertu de l'article 206.

Aucun pouvoir de renoncer aux droits relatifs aux services ou de les rembourser

(6) La personne ou l'entité qui a conclu un accord en vertu du paragraphe (2) pour la fourniture de services de dépôt pour les entreprises ne peut pas renoncer au paiement des droits pour un tel service qui sont payables à la province de l'Ontario, ni les rembourser, que ce soit en totalité ou en partie. Elle peut toutefois payer tout ou partie des droits pour le compte de la personne ou de l'entité à qui le service a été fourni.

Date présumée de réception par le directeur

(7) Les statuts, les demandes et les autres documents et renseignements envoyés à une personne ou à une entité qui a conclu un accord en vertu du paragraphe (2) l'autorisant à les recevoir au nom du directeur sont réputés avoir été reçus par le directeur à la date à laquelle la personne ou l'entité autorisée les a reçus.

Accords visant l'utilisation des dossiers et renseignements

(8) Le ministre, le directeur ou une personne désignée par l'un ou l'autre peut conclure avec toute personne ou entité un accord concernant l'utilisation, la divulgation ou la vente des dossiers et renseignements exigés par la présente loi ou la délivrance de permis à leur égard.

Propriété de la Couronne

206.3 Les dossiers et renseignements tenus par le directeur et déposés auprès de lui en application de la présente loi appartiennent à la Couronne.

52 L'article 207 de la Loi est abrogé et remplacé par ce qui suit :**Dispositions transitoires**

207 (1) Sous réserve du paragraphe (3), toute disposition des lettres patentes, lettres patentes supplémentaires, règlements administratifs ou résolutions extraordinaires de l'organisation qui était valide immédiatement avant le jour de l'entrée en vigueur du présent article et qui n'est pas conforme à la présente loi demeure valide et en vigueur jusqu'au troisième anniversaire de ce jour-là.

Disposition réputée modifiée après trois ans

(2) Sous réserve du paragraphe (3), la disposition visée au paragraphe (1) qui n'a pas été modifiée aux fins de conformité à la présente loi est réputée, le jour du troisième anniversaire de l'entrée en vigueur du présent article, modifiée dans la mesure nécessaire pour la rendre conforme à la présente loi.

Période de validité prolongée : certains règlements administratifs et résolutions extraordinaires

(3) Les dispositions suivantes des règlements administratifs ou des résolutions extraordinaires d'une organisation qui étaient valides immédiatement avant le jour de l'entrée en vigueur du présent article et qui, ce jour-là ou par la suite, ne sont pas supprimées et ajoutées aux statuts de l'organisation aux fins de conformité à la présente loi, demeurent valides et en vigueur jusqu'au jour où une inscription est produite à l'égard des clauses de modification, que ce jour tombe avant le troisième anniversaire de l'entrée en vigueur du présent article, ce jour-là ou par la suite, pour ajouter les dispositions aux statuts avec les modifications nécessaires pour les rendre conformes à la présente loi :

1. Une disposition concernant le nombre d'administrateurs de l'organisation.
2. Une disposition prévoyant deux ou plus de deux catégories ou groupes de membres.
3. Une disposition concernant les droits de vote des membres.
4. Une disposition concernant les délégués prévue conformément à l'article 130 de la *Loi sur les personnes morales*.
5. Une disposition concernant la répartition du reliquat des biens d'une organisation qui n'est pas une organisation d'intérêt public en cas de liquidation ou de dissolution.

Modification des lettres patentes et autres

(4) Il est entendu qu'une organisation peut, pour se conformer à la présente loi :

- a) modifier, au moyen de clauses de modification, une disposition de ses lettres patentes ou de ses lettres patentes supplémentaires;
- b) modifier, supprimer ou remplacer, en vertu de la présente loi, une disposition de ses règlements administratifs ou résolutions extraordinaires, notamment révoquer une disposition dont la présente loi exige l'inclusion non dans les règlements administratifs ou résolutions extraordinaires, mais dans les statuts.

Statuts mis à jour

(5) L'organisation ne doit pas mettre à jour ses statuts en application de l'article 109, sauf si les conditions suivantes sont réunies :

- a) les statuts de l'organisation sont conformes à la présente loi et aux règlements;
- b) si les statuts sont réputés modifiés en application du paragraphe (2) ou du paragraphe 167 (5.1), l'organisation a modifié ses statuts pour les rendre conformes à la présente loi et aux règlements, conformément au présent article.

Règlements du lieutenant gouverneur en conseil

207.1 Le lieutenant-gouverneur en conseil peut, par règlement, prescrire des dispositions de la présente loi et des règlements qui doivent s'appliquer aux personnes morales simples avec les adaptations, le cas échéant, que précisent les règlements.

53 (1) L'article 208 de la Loi est abrogé et remplacé par ce qui suit :**Règlements du ministre**

208 (1) Le ministre peut, par règlement :

1. prescrire ou régir toute chose que la présente loi mentionne comme étant prescrite ou qu'elle exige ou permet de faire conformément aux règlements ou comme le prévoient ceux-ci et pour laquelle un pouvoir précis n'y est pas autrement prévu;
2. traiter de la teneur, de la forme et du dépôt des statuts, des clauses, des demandes et des autres documents et renseignements déposés auprès du directeur ou délivrés par ce dernier, ainsi que de la forme et du paiement des droits, et régir ces aspects;
3. traiter de la façon de rédiger, de présenter et d'accepter les statuts, les demandes et les autres documents et renseignements déposés auprès du directeur, du paiement des droits et de l'établissement de la date de réception, et régir ces aspects;
4. désigner les statuts, les demandes et les autres documents et renseignements qui doivent être déposés auprès du directeur :
 - i. sous forme imprimée ou électronique,
 - ii. sous forme électronique seulement,
 - iii. sous forme imprimée seulement;
5. sous réserve des conditions précisées dans le règlement, prescrire et régir les documents et les renseignements qui doivent accompagner les statuts, les demandes et les autres formulaires approuvés mentionnés à l'article 210 et préciser, pour chacune des formes désignées visées à la disposition 4 du présent paragraphe :
 - i. les documents et les renseignements qui doivent être déposés auprès du directeur avec les statuts, les demandes et les autres formulaires approuvés mentionnés à l'article 210,
 - ii. les documents et les renseignements qui doivent être conservés par l'organisation et qui, à la réception de l'avis écrit du directeur et conformément à cet avis, et sous réserve des conditions qu'impose le directeur, doivent être déposés auprès de lui ou remis à l'autre personne qui y est précisée;
6. permettre au directeur, sous réserve des conditions qu'il impose, de faire ce qui suit pour chacune des formes désignées visées à la disposition 4 :
 - i. exiger que les documents ou les renseignements prescrits en vertu de la sous-disposition 5 i soient conservés par l'organisation et, à la réception de l'avis écrit du directeur et conformément à cet avis, soient déposés auprès de lui ou remis à l'autre personne qui y est précisée,
 - ii. exiger que les documents ou les renseignements prescrits en vertu de la sous-disposition 5 ii soient déposés auprès du directeur avec les statuts, les demandes et les autres formulaires approuvés mentionnés à l'article 210,
 - iii. exiger que les documents dont la présente loi exige le dépôt auprès du directeur soient conservés par l'organisation et, à la réception de l'avis écrit du directeur et conformément à cet avis, soient déposés auprès de lui ou remis à l'autre personne qui y est précisée;
7. régir les conditions que le directeur peut imposer conformément à un règlement pris en vertu de la sous-disposition 5 ii ou de la disposition 6;
8. traiter de la production d'un certificat ou d'une autorisation à l'égard des statuts et des demandes et de la délivrance de certificats et d'autorisations par le directeur, y compris des règles relatives à la production et à la délivrance par des moyens électroniques, et régir ces aspects;
9. régir l'attribution de numéros d'organisation en application de l'article 10;
10. prescrire les restrictions applicables aux objets des organisations;
11. régir les dénominations des organisations, y compris prescrire les règles et les exigences relatives à leur forme et à leur langue, les mots, les expressions et les signes, notamment de ponctuation, qui sont permis ainsi que les mots, les expressions et les signes, notamment de ponctuation, qui sont interdits;
12. prescrire les documents portant sur la dénomination qui doivent être déposés auprès du directeur;
13. régir la conservation et la destruction des statuts, des demandes et des autres documents et renseignements déposés auprès du directeur, notamment la forme sous laquelle ils doivent être conservés;
14. régir la forme des avis ou autres documents exigés ou autorisés par la présente loi ainsi que les modes et modalités de leur remise, y compris les règles concernant le moment où ils sont réputés reçus;
15. régir la publication des avis aux organisations pour l'application du paragraphe 170 (1);
16. régir la forme des documents et des renseignements qui doivent ou qui peuvent être établis, remis, déposés, conservés ou récupérés dans le cadre de la présente loi, y compris prescrire les règles à cet égard dans le cas de documents électroniques;

- 17 prescrire les normes et les exigences technologiques applicables au dépôt de documents électroniques auprès d'une organisation, de ses membres, administrateurs et dirigeants ou de toute autre personne, et à leur remise à ceux-ci;
- 18 prescrire et régir la forme, les modes et les modalités de remise des avis et autres documents à une organisation, à ses membres, administrateurs et dirigeants ou à toute autre personne et les modes de dépôt de documents auprès de ceux-ci, y compris prescrire les règles concernant le moment où ils sont réputés reçus;
- 19 régir la publication des règlements administratifs d'organisation standard du ministère visés au paragraphe 18 (2);
- 20 traiter de l'autorisation donnée à tout particulier par une entité, notamment une autre organisation faisant partie des membres d'une organisation, pour qu'il représente l'entité membre aux assemblées pour l'application du paragraphe 48 (7);
- 21 régir le rapport que doit présenter le vérificateur et l'autre personne dans le cadre de l'article 78, y compris prescrire les normes en vigueur d'un organisme comptable prescrit qui doivent être utilisées pour l'application de la partie VII;
- 22 régir les états financiers devant être approuvés par les administrateurs en application de la partie VIII, y compris prescrire les normes en vigueur d'un organisme comptable prescrit qui doivent être utilisées pour leur établissement;
- 23 prescrire les renseignements que doivent comporter le registre des administrateurs, le registre des dirigeants et le registre des membres que conserve l'organisation en application du paragraphe 92 (1);
- 24 prescrire des circonstances pour l'application de l'alinéa 170 (2.0.1) c);
- 25 régir les renoncations au délai et la réduction de sa durée pour l'application de l'article 198, y compris prescrire la manière de procéder;
- 26 prescrire des documents pour l'application du paragraphe 204.2 (2);
- 27 prescrire les fonctions et pouvoirs du directeur, outre ceux énoncés dans la présente loi;
- 28 désigner les fonctionnaires ou les catégories de fonctionnaires employés aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario* chargés de produire et de délivrer des certificats, y compris des attestations de faits, et de certifier conformes des copies de documents exigés ou autorisés par la présente loi;
- 29 prévoir qu'une personne ou une entité qui conclut un accord en vertu du paragraphe 206.2 (2) est un mandataire de la Couronne et préciser les services et les fins à l'égard desquels la personne ou l'entité est considérée comme un mandataire de la Couronne;
- 30 définir des mots ou expressions employés mais non expressément définis dans la présente loi;
- 31 prescrire toute question que le ministre estime nécessaire ou souhaitable pour l'application de la présente loi;
- 32 prévoir les questions transitoires que le ministre estime nécessaires ou souhaitables relativement à la mise en application des modifications à la présente loi édictées par l'annexe 8 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*.

Incorporation continue par renvoi

(2) Un règlement pris en vertu du paragraphe (1) qui incorpore un autre document par renvoi peut prévoir que le renvoi au document vise également les modifications qui y sont apportées après la prise du règlement.

(2) La disposition 32 du paragraphe 208 (1) de la *Loi*, telle qu'elle est édictée par le paragraphe (1), est abrogée.

54 Le paragraphe 209 (1) de la *Loi* est abrogé et remplacé par ce qui suit :

Droits

(1) Le ministre peut, par arrêté, exiger le paiement de droits pour les rapports de recherche, les copies de documents ou de renseignements, le dépôt de documents ou les autres services prévus par la présente loi, en approuver le montant et prévoir la renonciation à ces droits ou leur remboursement, en totalité ou en partie.

55 L'article 210 de la *Loi* est modifié par adjonction du paragraphe suivant :

Non-application de la *Loi de 2006 sur la législation*

(2) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

56 La partie XV de la *Loi* est modifiée par adjonction des articles suivants :

Méthodes de production et de délivrance

210.1 Le directeur peut produire des certificats et des autorisations à l'égard des statuts et des demandes et délivrer des certificats, des autorisations, des copies certifiées conformes et d'autres documents par tout moyen et peut utiliser ou délivrer des codes de validation ou d'autres systèmes ou méthodes de validation à l'égard de la production et de la délivrance.

Exigences établies par le directeur**210.2 (1) Le directeur peut établir des exigences qui :**

- a) traitent de la teneur, de la forme et du dépôt des statuts, des clauses, des demandes et des autres documents et renseignements déposés auprès du directeur ou délivrés par ce dernier, ainsi que de la forme et du paiement des droits, et régissent ces aspects;
- b) traitent de la façon de rédiger, de présenter et d'accepter les statuts, les demandes et les autres documents et renseignements déposés auprès du directeur, du paiement des droits et de l'établissement de la date de réception, et régissent ces aspects;
- c) précisent que les statuts, les demandes et les autres documents et renseignements ne peuvent être déposés auprès du directeur, et les droits acquittés, que par une personne autorisée par le directeur ou appartenant à une catégorie de personnes autorisées par le directeur;
- d) régissent l'autorisation des personnes visées à l'alinéa c), notamment :
 - (i) en fixant les conditions et exigences auxquelles il faut satisfaire pour devenir une personne autorisée,
 - (ii) en assortissant l'autorisation de conditions, y compris de conditions régissant le dépôt des statuts, des demandes et des autres documents et renseignements ainsi que le paiement des droits,
 - (iii) en exigeant de toute personne qui demande une autorisation qu'elle conclue avec le directeur ou avec la personne qu'il désigne un accord régissant le dépôt des statuts, des demandes et des autres documents et renseignements;
- e) précisent si les statuts, les demandes et les autres formulaires approuvés mentionnés à l'article 210 et les documents à l'appui doivent être signés et, si oui, lesquels doivent l'être, précisent des exigences ayant trait à leur signature et régissent la forme des signatures, notamment en établissant des règles à l'égard des signatures électroniques;
- f) précisent et régissent les façons de passer les statuts, les demandes, les autres formulaires approuvés mentionnés à l'article 210, les documents à l'appui et les déclarations autrement qu'en les signant, et établissent des règles à cet égard;
- g) précisent les exigences selon lesquelles les organisations qui déposent électroniquement des statuts, des demandes et d'autres formulaires approuvés mentionnés à l'article 210 doivent conserver à leur siège social une version sous forme imprimée ou électronique de ceux-ci, passés en bonne et due forme et, si un avis du directeur l'exige, fournir à ce dernier une copie de la version passée dans le délai indiqué dans l'avis;
- h) si la présente loi précise les exigences applicables à la signature des statuts, des demandes et des autres documents déposés auprès du directeur, précisent et régissent des exigences de rechange pour leur signature ou dispensent de toute exigence de signature;
- i) établissent les délais et les circonstances dans lesquels les statuts, les demandes et les autres documents et renseignements sont considérés comme ayant été envoyés au directeur ou reçus par ce dernier, ainsi que le lieu où ils sont considérés comme l'ayant été;
- j) établissent les normes et les exigences technologiques applicables au dépôt auprès du directeur des statuts, des demandes et des autres documents et renseignements sous forme électronique et au paiement des droits sous forme électronique;
- k) précisent le type de copie d'une ordonnance du tribunal ou d'un autre document délivré par le tribunal qui peut être déposée auprès du directeur;
- l) traitent de la production d'un certificat ou d'une autorisation à l'égard des statuts et des demandes et de la délivrance de certificats et d'autorisations par le directeur, y compris des règles relatives à la production et à la délivrance de certificats par des moyens électroniques, et régissent ces aspects;
- m) régissent l'attribution de numéros d'organisation en application de l'article 10;
- n) régissent les recherches et les moyens de recherche dans les dossiers pour l'application du paragraphe 200 (1).

Catégories**(2) Pour l'application de l'alinéa (1) c), une catégorie peut être définie :**

- a) soit en fonction d'un attribut ou d'une combinaison d'attributs;
- b) soit de façon à être constituée d'un membre donné ou à comprendre ou exclure un tel membre.

Non-application de la Loi de 2006 sur la législation

(3) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux exigences établies par le directeur en vertu du paragraphe (1).

Incompatibilité

(4) En cas d'incompatibilité, les règlements pris en vertu de la présente loi l'emportent sur les exigences établies en vertu du présent article.

57 La partie XVI (article 211) de la Loi est abrogée.

58 Les articles 212 et 226, le paragraphe 231 (2) et les articles 234 et 243 de la Loi sont abrogés.

59 L'article 249 de la Loi est abrogé et remplacé par ce qui suit :

Entrée en vigueur

249 (1) Sous réserve du paragraphe (2), la présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) L'article 105 et les paragraphes 111 (3) et (4), 116 (3) et 118 (4) et (5) entrent en vigueur le jour que le lieutenant-gouverneur fixe par proclamation, lequel n'est pas antérieur au troisième anniversaire du jour de l'entrée en vigueur du paragraphe 4 (1).

60 Le paragraphe 55 (9) de l'annexe 7 de la Loi de 2015 sur les mesures budgétaires est abrogé.

MODIFICATIONS CORRÉLATIVES**Loi de 1996 sur AgriCorp**

61 Le paragraphe 1 (4) de la Loi de 1996 sur AgriCorp est abrogé et remplacé par ce qui suit :

Non-application de certaines lois

(4) La Loi sur les personnes morales, la Loi sur les renseignements exigés des personnes morales, la Loi sur les assurances et la Loi de 2010 sur les organisations sans but lucratif ne s'appliquent pas à AgriCorp ni aux personnes morales créées en vertu du paragraphe 16 (1).

Loi sur l'Institut de recherche agricole de l'Ontario

62 (1) Le paragraphe 2 (1) de la Loi sur l'Institut de recherche agricole de l'Ontario est modifié par remplacement de «personne morale» par «personne morale sans capital-actions».

(2) L'article 2 de la Loi est modifié par adjonction du paragraphe suivant :

Non-application de la Loi de 2010 sur les organisations sans but lucratif

(1.1) La Loi de 2010 sur les organisations sans but lucratif ne s'applique pas à l'Institut de recherche.

Loi de 1996 sur la réglementation des alcools et des jeux et la protection du public

63 (1) Le paragraphe 2 (9) de la Loi de 1996 sur la réglementation des alcools et des jeux et la protection du public est abrogé et remplacé par ce qui suit :

Non-application de certaines lois

(9) Les lois suivantes ne s'appliquent pas à la Commission :

- 1. La Loi sur les renseignements exigés des personnes morales.**
- 2. La Loi de 2010 sur les organisations sans but lucratif, sauf selon ce qui est prescrit par les règlements pris en vertu de la présente partie.**

(2) L'article 16 de la Loi est modifié par adjonction de l'alinéa suivant :

(a) prescrire les dispositions de la Loi de 2010 sur les organisations sans but lucratif qui s'appliquent à la Commission.

Loi de 2008 sur l'Université Algoma

64 Le paragraphe 2 (3) de la Loi de 2008 sur l'Université Algoma est modifié par remplacement de «la Loi sur les personnes morales» par «la Loi de 2010 sur les organisations sans but lucratif» à la fin du paragraphe.

Loi sur l'Agence de foresterie du parc Algonquin

65 Le paragraphe 3 (4) de la Loi sur l'Agence de foresterie du parc Algonquin est abrogé et remplacé par ce qui suit :

Non application de certaines lois

(4) La Loi de 2010 sur les organisations sans but lucratif et la Loi sur les renseignements exigés des personnes morales ne s'appliquent pas à l'Agence.

Loi sur le Musée des beaux-arts de l'Ontario

66 L'article 9 de la Loi sur le Musée des beaux-arts de l'Ontario est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

9 (1) La *Loi de 2010 sur les organisations sans but lucratif* s'applique au Musée, sauf selon ce qui est prescrit par règlement pris en vertu du paragraphe (2).

Règlements

(2) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui ne s'appliquent pas au Musée.

Loi sur le Conseil des arts

67 La *Loi sur le Conseil des arts* est modifiée par adjonction de l'article suivant :

Loi de 2010 sur les organisations sans but lucratif

12 (1) La *Loi de 2010 sur les organisations sans but lucratif* s'applique au Conseil, sauf selon ce qui est prescrit par règlement pris en vertu du paragraphe (2).

Règlements

(2) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui ne s'appliquent pas au Conseil.

Loi sur le Centre Centennial des sciences et de la technologie

68 Les paragraphes 2 (4) et (5) de la *Loi sur le Centre Centennial des sciences et de la technologie* sont abrogés et remplacés par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

(4) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas au Centre, sauf selon ce qui est prescrit par règlement pris en vertu du paragraphe (5).

Règlements

(5) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent au Centre.

Loi de 2014 sur la garde d'enfants et la petite enfance

69 Le paragraphe 57 (2) de la *Loi de 2014 sur la garde d'enfants et la petite enfance*, tel qu'il est réédité par l'article 77 de l'annexe 7 de la *Loi de 2017* visant à réduire les formalités administratives inutiles, est abrogé et remplacé par ce qui suit :

Pouvoirs d'une personne physique

(2) Il est entendu que, pour l'application de la présente loi, le gestionnaire de système de services peut utiliser les pouvoirs que lui confèrent les dispositions suivantes :

1. L'article 9 de la *Loi de 2001 sur les municipalités* ou l'article 7 de la *Loi de 2006 sur la cité de Toronto*, si le gestionnaire de système de services est une municipalité.
2. L'article 15 de la *Loi de 2010 sur les organisations sans but lucratif*, si le gestionnaire de système de services est un conseil d'administration de district des services sociaux.

Loi de 1999 sur la ville du Grand Sudbury

70 L'alinéa 11.8 (2) a) de la *Loi de 1999 sur la ville du Grand Sudbury* est abrogé et remplacé par ce qui suit :

- a) soit à laquelle s'applique la *Loi de 2010 sur les organisations sans but lucratif*.

Loi de 1999 sur la cité de Hamilton

71 L'alinéa 11.2 (2) a) de la *Loi de 1999 sur la cité de Hamilton* est abrogé et remplacé par ce qui suit :

- a) soit à laquelle s'applique la *Loi de 2010 sur les organisations sans but lucratif*.

Loi de 1999 sur la ville d'Ottawa

72 L'alinéa 12.2 (2) a) de la *Loi de 1999 sur la ville d'Ottawa* est abrogé et remplacé par ce qui suit :

- a) soit à laquelle s'applique la *Loi de 2010 sur les organisations sans but lucratif*.

Loi de 2006 sur la cité de Toronto

73 (1) Le paragraphe 125 (4) de la *Loi de 2006 sur la cité de Toronto* est abrogé et remplacé par ce qui suit :

Non-application de certaines lois

(4) La *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas à la cité.

Conseils locaux et *Loi de 2010 sur les organisations sans but lucratif*

(5) Sauf selon ce qui est prescrit, la *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à un conseil local qui est une personne morale.

Règlements

(6) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire ce qui suit pour l'application du paragraphe (5) :

- a) un conseil local;
- b) les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui doivent s'appliquer au conseil local;
- c) les modifications sous réserve desquelles ces dispositions doivent s'appliquer au conseil local.

Définition

(7) La définition qui suit s'applique au présent article.

«conseil local» S'entend d'un conseil local autre que ce qui suit :

- a) un conseil de santé au sens du paragraphe 1 (1) de la *Loi sur la protection et la promotion de la santé*;
- b) un conseil de gestion constitué en application de la *Loi de 2007 sur les foyers de soins de longue durée*;
- c) une personne morale constituée en application de la *Loi sur l'aménagement du territoire*;
- d) une commission municipale créée en application de la présente loi.

(2) Le paragraphe 142 (4) de la Loi est abrogé et remplacé par ce qui suit :

Non-application de certaines lois

(4) La *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas à une commission municipale qui est une personne morale.

Loi sur l'indemnisation des victimes d'actes criminels

74 Le paragraphe 3 (2) de la *Loi sur l'indemnisation des victimes d'actes criminels* est modifié par remplacement de «une personne morale à laquelle ne s'applique pas la *Loi sur les personnes morales*» par «une organisation à laquelle ne s'applique pas la *Loi de 2010 sur les organisations sans but lucratif*» à la fin du paragraphe.

Loi de 1998 sur les condominiums

75 Le paragraphe 5 (3) de la *Loi de 1998 sur les condominiums* est modifié par remplacement de «La *Loi sur les personnes morales*» par «La *Loi de 2010 sur les organisations sans but lucratif*» au début du paragraphe.

Loi sur les terres protégées

76 L'alinéa 3 (1) f) de la *Loi sur les terres protégées* est abrogé et remplacé par ce qui suit :

- f) une organisation constituée en vertu de la *Loi de 2010 sur les organisations sans but lucratif* ou d'une loi qu'elle remplace ou constituée en vertu de la *Loi canadienne sur les organisations à but non lucratif* ou d'une loi qu'elle remplace;

Loi sur les sociétés coopératives

77 (1) Les dispositions suivantes de la *Loi sur les sociétés coopératives* sont modifiées par remplacement de «une personne morale assujettie à la partie III de la *Loi sur les personnes morales*» par «une organisation assujettie à la *Loi de 2010 sur les organisations sans but lucratif*» partout où figure cette expression :

1. L'alinéa 143 b).
2. L'alinéa 144 (1) b).
3. L'alinéa 144.1 (2) b).

(2) L'alinéa 151 (1) n) de la *Loi* est modifié par substitution de «personne morale à laquelle s'applique la partie III de la *Loi sur les personnes morales*» par «organisation à laquelle s'applique la *Loi de 2010 sur les organisations sans but lucratif*» à la fin de l'alinéa.

(3) Le paragraphe 158.1 (1) de la *Loi* est abrogé et remplacé par ce qui suit :

Maintien de personnes morales régies par d'autres lois

(1) La société constituée en vertu de la *Loi sur les sociétés par actions*, la personne morale constituée en vertu de la *Loi sur les personnes morales* ou l'organisation constituée en vertu de la *Loi de 2010 sur les organisations sans but lucratif*, ou en vertu d'une loi que l'une ou l'autre de ces lois remplace, peut demander au ministre un certificat de maintien la maintenant comme si elle avait été constituée en vertu de la présente loi, pourvu que la demande remplisse les conditions prévues par la loi qui la régit.

Loi de 1994 sur les caisses populaires et les credit unions

78 Le paragraphe 249 (2) de la *Loi de 1994 sur les caisses populaires et les credit unions* est abrogé et remplacé par ce qui suit :

Non-application de certaines lois

(2) La *Loi sur les personnes morales* et la *Loi de 2010 sur les organisations sans but lucratif* ne s'appliquent pas à la Société.

Loi sur l'éducation

79 L'alinéa 248 (2) f) de la *Loi sur l'éducation* est modifié par remplacement de «de la *Loi sur les personnes morales*» par «de la *Loi de 2010 sur les organisations sans but lucratif*».

Loi de 1996 sur l'Office de la qualité et de la responsabilité en éducation

80 (1) L'article 10 de la *Loi de 1996 sur l'Office de la qualité et de la responsabilité en éducation* est modifié par remplacement de «La *Loi sur les personnes morales*» par «La *Loi de 2010 sur les organisations sans but lucratif*» au début de l'article.

(2) L'alinéa 26 (1) c) de la *Loi* est modifié par remplacement de «de la *Loi sur les personnes morales*» par «de la *Loi de 2010 sur les organisations sans but lucratif*».

Loi de 1998 sur l'électricité

81 Les dispositions suivantes de la *Loi de 1998 sur l'électricité* sont modifiées par remplacement de «la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif*» partout où figure cette expression :

1. L'article 83.
2. L'alinéa 86 (1) b).

Loi de 2010 sur l'excellence des soins pour tous

82 (1) L'alinéa 16 (1) r) de la *Loi de 2010 sur l'excellence des soins pour tous* est modifié par remplacement de «la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif*».

(2) L'article 17 de la *Loi* est abrogé.

Loi sur la commercialisation des produits agricoles

83 Le paragraphe 3 (5) de la *Loi sur la commercialisation des produits agricoles* est abrogé et remplacé par ce qui suit :

Personne morale sans capital-actions

(5) La commission locale est une personne morale sans capital-actions à laquelle ne s'appliquent pas la *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales*.

Loi sur le recouvrement du prix des produits agricoles

84 Le paragraphe 2 (6) de la *Loi sur le recouvrement du prix des produits agricoles* est abrogé et remplacé par ce qui suit :

Application de la *Loi de 2010 sur les organisations sans but lucratif*

(6) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas aux commissions.

Loi sur le George R. Gardiner Museum of Ceramic Art

85 L'article 18 de la *Loi sur le George R. Gardiner Museum of Ceramic Art* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

18 (1) La *Loi de 2010 sur les organisations sans but lucratif* s'applique au Musée, sauf selon ce qui est prescrit par règlement pris en vertu du paragraphe (2).

Règlements

(2) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui ne s'appliquent pas au Musée.

Loi de 2005 sur le Conseil ontarien de la qualité de l'enseignement supérieur

86 L'alinéa 9 (1) o) de la *Loi de 2005 sur le Conseil ontarien de la qualité de l'enseignement supérieur* est modifié par remplacement de «la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif*».

Loi sur le développement du logement

87 Le paragraphe 13 (2) de la *Loi sur le développement du logement* est modifié par remplacement de «la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif*».

Loi de 2011 sur les services de logement

88 (1) Le paragraphe 13 (2) de la *Loi de 2011 sur les services de logement*, tel qu'il est réédité par le paragraphe 78 (1) de l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*, est abrogé et remplacé par ce qui suit :

Pouvoirs d'une personne physique

(2) Il est entendu que, pour l'application de la présente loi, le gestionnaire de services peut utiliser les pouvoirs que lui attribuent les dispositions suivantes :

1. L'article 9 de la *Loi de 2001 sur les municipalités* ou l'article 7 de la *Loi de 2006 sur la cité de Toronto*, si le gestionnaire de services est une municipalité gestionnaire de services.
2. L'article 15 de la *Loi de 2010 sur les organisations sans but lucratif*, si le gestionnaire de services est un conseil gestionnaire de services.

(2) Le paragraphe 15 (1) de la *Loi*, tel qu'il est réédité par le paragraphe 78 (2) de l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*, est abrogé et remplacé par ce qui suit :

Précision : pouvoirs des conseils gestionnaires de services

(1) Le paragraphe 4 (1) de la *Loi sur les conseils d'administration de district des services sociaux* n'a pas pour effet d'empêcher un conseil gestionnaire de services d'exercer, à la grandeur de son aire de service pour l'application de la présente loi, les pouvoirs que lui attribue la présente loi ou l'article 15 de la *Loi de 2010 sur les organisations sans but lucratif*.

Code des droits de la personne

89 L'alinéa 48 (2) o) du *Code des droits de la personne* est modifié par remplacement de «la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif*».

Loi de 1998 sur les services d'aide juridique

90 (1) Le paragraphe 52 (1) de la *Loi de 1998 sur les services d'aide juridique* est modifié par remplacement de «La *Loi sur les personnes morales*» par «La *Loi de 2010 sur les organisations sans but lucratif*» au début du paragraphe.

(2) L'alinéa 97 (2) g) de la *Loi* est modifié par remplacement de «la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif*».

Loi de 2006 sur l'intégration du système de santé local

91 Le paragraphe 4 (2) de la *Loi de 2006 sur l'intégration du système de santé local* est abrogé et remplacé par ce qui suit :

Autres lois

(2) La *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas aux réseaux locaux d'intégration des services de santé, sauf selon ce qui est présent.

Loi intitulée The McMaster University Act, 1976

92 Le paragraphe 1 (2) de la loi intitulée *The McMaster University Act, 1976* est modifié par remplacement de «*The Corporations Act*» par «*the Not-for-Profit Corporations Act, 2010*».

Loi sur la Collection McMichael d'art canadien

93 Le paragraphe 2 (5) de la *Loi sur la Collection McMichael d'art canadien* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

(5) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à l'organisme, sauf selon ce qui est prescrit par règlement pris en vertu du paragraphe (6).

Règlements

(6) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à l'organisme.

Loi de 2006 sur Metrolinx

94 (1) Le paragraphe 37 (1) de la *Loi de 2006 sur Metrolinx* est abrogé et remplacé par ce qui suit :

Non-application de certaines lois concernant les personnes morales

(1) Sous réserve des paragraphes (2) et (3), la *Loi sur les sociétés par actions*, la *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas à la Régie ou à ses filiales.

(2) Les dispositions suivantes de la *Loi* sont modifiées par remplacement de «la *Loi sur les personnes morales*» par «la *Loi de 2010 sur les organisations sans but lucratif*» partout où figure cette expression :

1. Le paragraphe 37 (3), dans le passage qui précède l'alinéa a).
2. L'alinéa 42 (1) k).

Loi sur la Société du palais des congrès de la communauté urbaine de Toronto

95 Le paragraphe 2 (2) de la *Loi sur la Société du palais des congrès de la communauté urbaine de Toronto* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

(2) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à la Société, sauf selon ce qui est prescrit par règlement pris en vertu du paragraphe (2.1).

Règlements

(2.1) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à la Société.

Loi sur le lait

96 Le paragraphe 6 (4) de la *Loi sur le lait* est abrogé et remplacé par ce qui suit :

Personne morale sans capital-actions

(4) La commission de commercialisation est une personne morale sans capital-actions à laquelle ne s'appliquent pas la *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales*.

Loi sur les mines

97 L'alinéa 184 (1) a) de la *Loi sur les mines* est abrogé et remplacé par ce qui suit :

- a) sont confisqués au profit de la Couronne en vertu de la *Loi sur les personnes morales*, de la *Loi de 2010 sur les organisations sans but lucratif* ou de la *Loi sur les sociétés par actions*, ou de toute autre loi que l'une ou l'autre de ces lois remplace, ou sont confisqués au profit de la Couronne pour tout autre motif:

Loi sur le ministère de l'Agriculture, de l'Alimentation et des Affaires rurales

98 (1) Le paragraphe 12 (1) de la *Loi sur le ministère de l'Agriculture, de l'Alimentation et des Affaires rurales* est modifié par remplacement de «personne morale» par «personne morale sans capital-actions».

(2) Le paragraphe 12 (7) de la *Loi* est abrogé et remplacé par ce qui suit :

Non-application de certaines lois

(7) La *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas à la Commission.

Loi de 2001 sur les municipalités

99 (1) L'article 4 de la *Loi de 2001 sur les municipalités* est abrogé et remplacé par ce qui suit :

Personne morale

4 Les habitants de chaque municipalité sont constitués en personne morale.

Application de certaines lois

4.1 (1) La *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas aux municipalités.

Conseils locaux et *Loi de 2010 sur les organisations sans but lucratif*

(2) Sauf selon ce qui est prescrit, la *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à un conseil local qui est une personne morale.

Règlements

(3) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire ce qui suit pour l'application du paragraphe (2) :

- a) un conseil local;
- b) les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui doivent s'appliquer au conseil local;
- c) les modifications sous réserve desquelles ces dispositions doivent s'appliquer au conseil local.

Définition

(4) La définition qui suit s'applique au présent article.

«conseil local» S'entend d'un conseil local autre que ce qui suit :

- a) un conseil de santé au sens du paragraphe 1 (1) de la *Loi sur la protection et la promotion de la santé*;
- b) un conseil de gestion constitué en application de la *Loi de 2007 sur les foyers de soins de longue durée*;
- c) une personne morale constituée en application de la *Loi sur l'aménagement du territoire*;
- d) une commission de services municipaux créée en vertu de la présente loi.

(2) Le paragraphe 197 (4) de la Loi est abrogé et remplacé par ce qui suit :

Non-application de certaines lois

(4) La *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas à une commission de services municipaux qui est une personne morale.

Loi de 1997 sur la Société d'évaluation foncière des municipalités

100 Le paragraphe 7 (5) de la *Loi de 1997 sur la Société d'évaluation foncière des municipalités* est abrogé et remplacé par ce qui suit :

Non-application de certaines lois concernant les personnes morales

(5) La *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas à la Société, sauf selon ce qui est prescrit par règlement dans le cas de la *Loi de 2010 sur les organisations sans but lucratif*.

Règlements

(6) Le ministre peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à la Société.

Loi sur la planification et l'aménagement de l'escarpement du Niagara

101 Le paragraphe 5 (13) de la *Loi sur la planification et l'aménagement de l'escarpement du Niagara* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

(13) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à la Commission.

Loi sur le Fonds du patrimoine du Nord de l'Ontario

102 L'article 4 de la *Loi sur le Fonds du patrimoine du Nord de l'Ontario* est abrogé et remplacé par ce qui suit :

Application de la *Loi de 2010 sur les organisations sans but lucratif*

4 (1) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à la Société, sauf selon ce qui est prescrit par règlement.

Règlements

(2) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à la Société.

Loi sur les régies des services publics du Nord

103 (1) Le paragraphe 6 (1) de la *Loi sur les régies des services publics du Nord* est abrogé et remplacé par ce qui suit :

Statut de la régie

(1) La régie est une personne morale. Toutefois, la *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à la régie, sauf selon ce qui est prescrit par règlement.

(2) Le paragraphe 7 (7) de la *Loi* est abrogé et remplacé par ce qui suit :

Cession de contrats

(7) La régie peut, par règlement administratif, accepter la cession d'un contrat ou d'une entente conclus par une organisation constituée en vertu de la *Loi de 2010 sur les organisations sans but lucratif* ou d'une loi qu'elle remplace, si l'objet du contrat ou de l'entente est compatible avec les pouvoirs de la régie.

(3) L'article 33 de la *Loi* est abrogé et remplacé par ce qui suit :

Règlements

33 Le lieutenant-gouverneur en conseil peut, par règlement :

- a) modifier l'annexe de la présente loi;
- b) prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à la régie.

(4) Le paragraphe 39 (13) de la *Loi* est modifié par remplacement de «*La Loi sur les personnes morales*» par «*La Loi de 2010 sur les organisations sans but lucratif*» au début du paragraphe.

Loi de 2008 sur la Société ontarienne de financement de la croissance

104 Le paragraphe 2 (2) de la *Loi de 2008 sur la Société ontarienne de financement de la croissance* est modifié par remplacement de «*La Loi sur les personnes morales*» par «*La Loi de 2010 sur les organisations sans but lucratif*» au début du paragraphe.

Loi de 2002 sur l'Université de l'École d'art et de design de l'Ontario

105 Le paragraphe 2 (2) de la *Loi de 2002 sur l'Université de l'École d'art et de design de l'Ontario* est modifié par remplacement de «*de la Loi sur les personnes morales*» par «*de la Loi de 2010 sur les organisations sans but lucratif*» à la fin du paragraphe.

Loi de 1996 sur l'Ordre des enseignantes et des enseignants de l'Ontario

106 (1) Le paragraphe 2 (3) de la *Loi de 1996 sur l'Ordre des enseignantes et des enseignants de l'Ontario* est modifié par remplacement de «*La Loi sur les personnes morales*» par «*La Loi de 2010 sur les organisations sans but lucratif*» au début du paragraphe.

(2) La disposition 1 du paragraphe 40 (1) de la *Loi* est modifiée par remplacement de «*de la Loi sur les personnes morales*» par «*de la Loi de 2010 sur les organisations sans but lucratif*».

Loi de 2002 sur les collèges d'arts appliqués et de technologie de l'Ontario

107 (1) L'alinéa 8 (1) c) de la *Loi de 2002 sur les collèges d'arts appliqués et de technologie de l'Ontario* est modifié par remplacement de «*de la Loi sur les personnes morales dans les conditions prescrites*» par «*de la Loi de 2010 sur les organisations sans but lucratif dans les conditions prescrites, le cas échéant*» à la fin de l'alinéa.

(2) Le paragraphe 8 (3) de la *Loi* est modifié par remplacement de «*de la Loi sur les personnes morales*» par «*de la Loi de 2010 sur les organisations sans but lucratif*» à la fin du paragraphe.

Loi sur l'Office de la télécommunication éducative de l'Ontario

108 (1) Le paragraphe 6 (4) de la *Loi sur l'Office de la télécommunication éducative de l'Ontario*, tel qu'il est réédité par l'article 81 de l'annexe 7 de la *Loi de 2017* visant à réduire les formalités administratives inutiles, est abrogé et remplacé par ce qui suit :

Application de la *Loi de 2010 sur les organisations sans but lucratif*

(4) Les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui sont prescrites par règlement ne s'appliquent pas à l'Office à moins que soit obtenue l'autorisation du lieutenant-gouverneur en conseil.

(2) Le paragraphe 6 (4.1) de la *Loi*, tel qu'il est édicté par l'article 81 de l'annexe 7 de la *Loi de 2017* visant à réduire les formalités administratives inutiles, est abrogé.

(3) L'article 17 de la *Loi* est modifié par adjonction de l'alinéa suivant :

- e) prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* pour l'application du paragraphe 6 (4).

Loi de 1998 sur la Commission de l'énergie de l'Ontario

109 L'article 4.15 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* est modifié par remplacement de «La Loi sur les personnes morales» par «La Loi de 2010 sur les organisations sans but lucratif» au début de l'article.

Loi sur le Marché des produits alimentaires de l'Ontario

110 (1) Le paragraphe 2 (1) de la *Loi sur le Marché des produits alimentaires de l'Ontario* est modifié par remplacement de «personne morale» par «personne morale sans capital-actions».

(2) L'article 4 de la Loi est modifié par adjonction du paragraphe suivant :

Application de la Loi de 2010 sur les organisations sans but lucratif

(2.1) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à la Commission.

Loi de 2008 sur l'Office des télécommunications éducatives de langue française de l'Ontario

111 (1) Le paragraphe 6 (4) de la *Loi de 2008 sur l'Office des télécommunications éducatives de langue française de l'Ontario*, tel qu'il est réédité par l'article 83 de l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*, est abrogé et remplacé par ce qui suit :

Application de la Loi de 2010 sur les organisations sans but lucratif

(4) Les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui sont prescrites par règlement ne s'appliquent pas à l'Office à moins que soit obtenue l'autorisation du lieutenant-gouverneur en conseil.

(2) Le paragraphe 6 (4.1) de la Loi, tel qu'il est édicté par l'article 83 de l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles*, est abrogé.

(3) L'article 22 de la Loi est modifié par adjonction de l'alinéa suivant :

- e) prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* pour l'application du paragraphe 6 (4).

Loi sur le patrimoine de l'Ontario

112 (1) L'article 6 de la *Loi sur le patrimoine de l'Ontario* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

6 La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à la Fiducie, sauf selon ce qui est prescrit par règlement.

(2) Le paragraphe 70 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

- n) prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à la Fiducie.

Loi sur la Société ontarienne d'hypothèques et de logement

113 Le paragraphe 2 (5) de la *Loi sur la Société ontarienne d'hypothèques et de logement* est modifié par remplacement de «La Loi sur les personnes morales» par «La Loi de 2010 sur les organisations sans but lucratif» au début du paragraphe.

Loi de 2006 sur le Régime de retraite des employés municipaux de l'Ontario

114 (1) Le paragraphe 22 (4) de la *Loi de 2006 sur le Régime de retraite des employés municipaux de l'Ontario* est abrogé et remplacé par ce qui suit :

Idem

(4) La *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas à la Société de promotion.

(2) Le paragraphe 32 (4) de la Loi est abrogé et remplacé par ce qui suit :

Idem

(4) La *Loi de 2010 sur les organisations sans but lucratif* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas à la Société d'administration.

Loi sur la Commission de transport Ontario Northland

115 La *Loi sur la Commission de transport Ontario Northland* est modifiée par adjonction de l'article suivant :

Loi de 2010 sur les organisations sans but lucratif

2.1 (1) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à la Commission, sauf selon ce qui est prescrit par règlement.

Règlements

(2) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à la Commission.

Loi sur la Société d'exploitation de la Place de l'Ontario

116 (1) L'article 5 de la *Loi sur la Société d'exploitation de la Place de l'Ontario* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

5 La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à la Société, sauf selon ce qui est prescrit par règlement pris en vertu de l'article 10.1.

(2) La Loi est modifiée par adjonction de l'article suivant :

Règlements : disposition supplémentaire

10.1 Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à la Société.

Loi de 2016 sur les sentiers de l'Ontario

117 L'alinéa h) de la définition de «organisme admissible» au paragraphe 12 (1) de la *Loi de 2016 sur les sentiers de l'Ontario* est modifié par remplacement de «une personne morale constituée en vertu de la partie III de la *Loi sur les personnes morales*» par «une organisation constituée en vertu de la *Loi de 2010 sur les organisations sans but lucratif* ou d'une loi qu'elle remplace».

Loi sur la Société du Centre des congrès d'Ottawa

118 Le paragraphe 2 (2) de la *Loi sur la Société du Centre des congrès d'Ottawa* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

(2) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas au Centre, sauf selon ce qui est prescrit par règlement pris en vertu du paragraphe (2.1).

Règlements

(2.1) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent au Centre.

Loi sur l'aménagement du territoire

119 La *Loi sur l'aménagement du territoire* est modifiée par adjonction de l'article suivant :

Loi de 2010 sur les organisations sans but lucratif

1.2 La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à une personne morale constituée en vertu de la présente loi.

Loi sur les services hospitaliers et médicaux prépayés

120 (1) L'article 3 de la *Loi sur les services hospitaliers et médicaux prépayés* est abrogé et remplacé par ce qui suit :

Constitution

3 La délivrance des statuts constitutifs d'une association conformes à la *Loi de 2010 sur les organisations sans but lucratif* ou à la *Loi sur les sociétés par actions* nécessite l'approbation écrite du surintendant.

(2) Le paragraphe 9 (4) de la Loi est modifié par remplacement de «l'article 210» par «l'article 208» et par remplacement de «les articles 208 à 238» par «les articles 207 à 236».

(3) Le paragraphe 9 (4) de la Loi est abrogé et remplacé par ce qui suit :

Liquidation

(4) Le surintendant peut, par requête, demander au tribunal de rendre, conformément à l'article 137 de la *Loi de 2010 sur les organisations sans but lucratif* ou à l'article 208 de la *Loi sur les sociétés par actions*, selon le cas, une ordonnance de liquidation de l'association qui a cessé de délivrer des contrats à ses membres ou à ses souscripteurs. Les articles 136 à 165 de la *Loi de 2010 sur les organisations sans but lucratif* ou les articles 207 à 236 de la *Loi sur les sociétés par actions*, selon le cas, s'appliquent à la liquidation.

Loi de 2000 sur les forestiers professionnels

121 (1) Le paragraphe 4 (3) de la *Loi de 2000 sur les forestiers professionnels* est modifié par remplacement de «*La Loi sur les personnes morales*» par «*La Loi de 2010 sur les organisations sans but lucratif*» au début du paragraphe.

(2) L'alinéa 52 (1) a) de la Loi est modifié par remplacement de «*de la Loi sur les personnes morales*» par «*de la Loi de 2010 sur les organisations sans but lucratif*».

Loi de 2000 sur les géoscientifiques professionnels

122 (1) Le paragraphe 27 (3) de la *Loi de 2000 sur les géoscientifiques professionnels* est modifié par remplacement de «*La Loi sur les personnes morales*» par «*La Loi de 2010 sur les organisations sans but lucratif*» au début du paragraphe.

(2) L'alinéa 43 (1) g) de la Loi est modifié par remplacement de «*la Loi sur les personnes morales*» par «*la Loi de 2010 sur les organisations sans but lucratif*».

Loi sur le tuteur et curateur public

123 (1) La *Loi sur le tuteur et curateur public* est modifiée par adjonction de l'article suivant :

Loi de 2010 sur les organisations sans but lucratif

13.2 La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas au tuteur et curateur public, sauf selon ce qui est prescrit par règlement.

(2) L'article 14 de la Loi est modifié par adjonction de l'alinéa suivant :

h) prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent au tuteur et curateur public ainsi que les adaptations éventuelles qui s'imposent.

Loi de 2002 sur le courtage commercial et immobilier

124 L'alinéa 5 (1) a) de la *Loi de 2002 sur le courtage commercial et immobilier* est modifié par insertion de «*, de la Loi de 2010 sur les organisations sans but lucratif*» après «*de la Loi sur les tribunaux judiciaires*».

Loi de 2016 sur la récupération des ressources et l'économie circulaire

125 (1) L'article 35 de la *Loi de 2016 sur la récupération des ressources et l'économie circulaire*, tel qu'il est modifié par le paragraphe 109 (1) de cette loi, est abrogé et remplacé par ce qui suit :

Application de certaines lois concernant les personnes morales

35 La *Loi sur les personnes morales*, la *Loi sur les renseignements exigés des personnes morales* et la *Loi de 2010 sur les organisations sans but lucratif* ne s'appliquent pas à l'Office, sauf dans la mesure prévue par les règlements.

(2) Le sous alinéa 105 b) (iv) de la Loi, tel qu'il est modifié par le paragraphe 109 (2) de cette loi, est abrogé et remplacé par ce qui suit :

(iv) prescrire des dispositions de la *Loi sur les personnes morales*, de la *Loi sur les renseignements exigés des personnes morales* et de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent aux filiales;

(3) L'alinéa 106 (1) h) de la Loi, tel qu'il est modifié par le paragraphe 109 (3) de cette loi, est abrogé et remplacé par ce qui suit :

h) prescrire les dispositions de la *Loi sur les personnes morales*, de la *Loi sur les renseignements exigés des personnes morales* et de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à l'Office.

Loi de 2010 sur les maisons de retraite

126 L'article 15 de la *Loi de 2010 sur les maisons de retraite* est modifié par remplacement de «*Loi sur les personnes morales*» par «*Loi de 2010 sur les organisations sans but lucratif*».

Loi intitulée Royal Botanical Gardens Act, 1989

127 Le paragraphe 2 (3) de la loi intitulée *Royal Botanical Gardens Act, 1989* est modifié par remplacement de «*The Corporations Act*» par «*The Not-for-Profit Corporations Act, 2010*» au début du paragraphe.

Loi sur le Musée royal de l'Ontario

128 La *Loi sur le Musée royal de l'Ontario* est modifiée par adjonction de l'article suivant :

Loi de 2010 sur les organisations sans but lucratif

15 (1) La *Loi de 2010 sur les organisations sans but lucratif* s'applique au Musée, sauf selon ce qui est prescrit par règlement pris en vertu du paragraphe (2).

Règlements

(2) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui ne s'appliquent pas au Musée.

Loi intitulée *Ryerson University Act, 1977*

129 Le paragraphe 1 (2) de la loi intitulée *Ryerson University Act, 1977* est modifié par remplacement de «*The Corporations Act*» par «*the Not-for-Profit Corporations Act, 2010*».

Loi sur Science Nord

130 (1) Le paragraphe 2 (5) de la *Loi sur Science Nord* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

(5) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas au Centre, sauf selon ce qui est prescrit par règlement pris en vertu de l'alinéa 16 (1) c).

(2) Le paragraphe 16 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

c) prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent au Centre.

Loi de 1995 sur les chemins de fer d'intérêt local

131 L'article 3 de la *Loi de 1995 sur les chemins de fer d'intérêt local* est abrogé et remplacé par ce qui suit :

Structure des personnes morales

3 La *Loi sur les sociétés par actions* ou la *Loi de 2010 sur les organisations sans but lucratif*, selon le cas, s'applique aux personnes morales qui exploitent un chemin de fer d'intérêt local, malgré l'article 2 de la *Loi sur les sociétés par actions*, l'article 4 de la *Loi de 2010 sur les organisations sans but lucratif* et la loi intitulée *The Railways Act*.

Loi sur la Commission des parcs du Saint-Laurent

132 L'article 21 de la *Loi sur la Commission des parcs du Saint-Laurent* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

21 (1) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à la Commission, sauf selon ce qui est prescrit par règlement pris en vertu du paragraphe (2).

Règlements : disposition supplémentaire

(2) Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les dispositions de la *Loi de 2010 sur les organisations sans but lucratif* qui s'appliquent à la Commission.

Loi sur les arpenteurs-géomètres

133 L'article 46 de la *Loi sur les arpenteurs-géomètres* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

46 La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas à l'Ordre, sauf selon ce qui est prescrit par règlement.

Loi sur le régime de retraite des enseignants

134 Le paragraphe 6 (2) de la *Loi sur le régime de retraite des enseignants* est abrogé et remplacé par ce qui suit :

Loi de 2010 sur les organisations sans but lucratif

(2) La *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas au Conseil.

Loi de 1993 sur l'administration de la zone résidentielle des îles de Toronto

135 Le paragraphe 11 (4) de la *Loi de 1993 sur l'administration de la zone résidentielle des îles de Toronto* est modifié par remplacement de «*La Loi sur les personnes morales*» par «*La Loi de 2010 sur les organisations sans but lucratif*», au début du paragraphe.

Loi de 2002 sur la Société de revitalisation du secteur riverain de Toronto

136 Le paragraphe 2 (5) de la *Loi de 2002 sur la Société de revitalisation du secteur riverain de Toronto* est modifié par remplacement de «*La Loi sur les personnes morales*» par «*La Loi de 2010 sur les organisations sans but lucratif*» au début du paragraphe.

Loi de 1999 sur la ville de Haldimand

137 L'alinéa 13.2 (2) a) de la *Loi de 1999 sur la ville de Haldimand* est abrogé et remplacé par ce qui suit :

a) soit à laquelle s'applique la *Loi de 2010 sur les organisations sans but lucratif*.

Loi de 1999 sur la ville de Norfolk

138 L'alinéa 13.2 (2) a) de la *Loi de 1999 sur la ville de Norfolk* est abrogé et remplacé par ce qui suit :

a) soit à laquelle s'applique la *Loi de 2010 sur les organisations sans but lucratif*.

Loi de 1992 sur les fondations universitaires

139 (1) Le paragraphe 4 (6) de la *Loi de 1992 sur les fondations universitaires* est modifié par remplacement de «La *Loi sur les personnes morales*» par «La *Loi de 2010 sur les organisations sans but lucratif*» au début du paragraphe.

(2) L'alinéa 11 (1) d) de la *Loi* est modifié par remplacement de «de la *Loi sur les personnes morales*» par «de la *Loi de 2010 sur les organisations sans but lucratif*».

Loi de 2002 sur l'Institut universitaire de technologie de l'Ontario

140 Le paragraphe 2 (3) de la *Loi de 2002 sur l'Institut universitaire de technologie de l'Ontario* est modifié par remplacement de «de la *Loi sur les personnes morales*» par «de la *Loi de 2010 sur les organisations sans but lucratif*» à la fin du paragraphe.

Loi intitulée The University of Toronto Act, 1971

141 (1) Le paragraphe 1 (2) de la loi intitulée *The University of Toronto Act, 1971* est modifié par remplacement de «Sections 85 and 347 of *The Corporations Act*» par «Sections 64 and 169 of the *Not-for-Profit Corporations Act, 2010*» au début du paragraphe.

(2) Le paragraphe 1 (3) de la *Loi* est modifié par remplacement de «*The Corporations Act*» par «the *Not-for-Profit Corporations Act, 2010*».

Loi intitulée University of Western Ontario Act, 1982

142 Le paragraphe 1 (2) de la loi intitulée *University of Western Ontario Act, 1982* est modifié par remplacement de «*Corporations Act*» par «*Not-for-Profit Corporations Act, 2010*».

Loi transitoire de 2016 sur le réacheminement des déchets

143 (1) Le paragraphe 14 (2) de la *Loi transitoire de 2016 sur le réacheminement des déchets*, tel qu'il est modifié par le paragraphe 77 (1) de cette loi, est modifié par remplacement de «de la *Loi de 2010 sur les organisations sans but lucratif*» par «de la *Loi sur les personnes morales* ou de la *Loi de 2010 sur les organisations sans but lucratif*».

(2) L'article 23 de la *Loi*, tel qu'il est modifié par le paragraphe 77 (2) de cette loi, est modifié par remplacement de «la *Loi de 2010 sur les organisations sans but lucratif*» par «la *Loi sur les personnes morales*, la *Loi de 2010 sur les organisations sans but lucratif*».

(3) Le paragraphe 43 (8) de la *Loi* est abrogé et remplacé par ce qui suit :

Idem

(8) L'administrateur général est un membre de l'organisme de financement industriel pour l'application de toute disposition de la partie VI de la *Loi sur les personnes morales* qui est prescrite comme s'appliquant à l'organisme en application de l'article 23 de la présente loi.

(4) Le paragraphe 43 (8) de la *Loi*, tel qu'il est modifié par le paragraphe 77 (3) de cette loi, est abrogé et remplacé par ce qui suit :

Idem

(8) L'administrateur général est un membre de l'organisme de financement industriel pour l'application de toute disposition de la partie VI de la *Loi sur les personnes morales* ou de la partie XII de la *Loi de 2010 sur les organisations sans but lucratif* qui est prescrite comme s'appliquant à l'organisme en application de l'article 23 de la présente loi.

(5) L'alinéa 73 (1) f) de la *Loi*, tel qu'il est modifié par le paragraphe 77 (4) de cette loi, est modifié par remplacement de «de la *Loi de 2010 sur les organisations sans but lucratif*» par «de la *Loi sur les personnes morales*, de la *Loi de 2010 sur les organisations sans but lucratif*».

(6) Le sous-alinéa 73 (1) h) (iv) de la *Loi*, tel qu'il est modifié par le paragraphe 77 (5) de cette loi, est modifié par remplacement de «de la *Loi de 2010 sur les organisations sans but lucratif*» par «de la *Loi sur les personnes morales*, de la *Loi de 2010 sur les organisations sans but lucratif*».

Loi intitulée The Wilfrid Laurier University Act, 1973

144 Le paragraphe 2 (2) de la loi intitulée *The Wilfrid Laurier University Act, 1973* est modifié par remplacement de «*The Corporations Act*» par «the *Not-for-Profit Corporations Act, 2010*».

AUTRES MODIFICATIONS

Loi de 2015 sur les mesures budgétaires

145 Le paragraphe 55 (8) de l'annexe 7 de la *Loi de 2015 sur les mesures budgétaires* est abrogé.

Loi de 2014 sur la modernisation des services de garde d'enfants

146 L'article 89 et le paragraphe 90 (2) de l'annexe 1 de la *Loi de 2014 sur la modernisation des services de garde d'enfants* sont abrogés.

Loi de 2015 sur la protection des propriétaires de condominiums

147 Les dispositions suivantes de la *Loi de 2015 sur la protection des propriétaires de condominiums* sont modifiées par remplacement de «paragraphe 211 (1) de la *Loi de 2010 sur les organisations sans but lucratif*» par «paragraphe 4 (1) de la *Loi de 2010 sur les organisations sans but lucratif*» partout où figure cette expression :

1. Le paragraphe 159 (2) de l'annexe 1.
2. Le paragraphe 83 (2) de l'annexe 2.
3. Le paragraphe 83 (3) de l'annexe 2.

Loi de 2017 donnant la priorité aux consommateurs (modifiant des lois en ce qui concerne la protection du consommateur)

148 Les dispositions suivantes de l'annexe 1 de la *Loi de 2017 donnant la priorité aux consommateurs (modifiant des lois en ce qui concerne la protection du consommateur)* sont modifiées par remplacement de «paragraphe 211 (1) de la *Loi de 2010 sur les organisations sans but lucratif*» par «paragraphe 4 (1) de la *Loi de 2010 sur les organisations sans but lucratif*» partout où figure cette expression :

1. Le paragraphe 82 (3).
2. Le paragraphe 82 (4).

Loi de 2011 favorisant des collectivités fortes grâce au logement abordable

149 Les paragraphes 185 (1) et (2) de l'annexe 1 de la *Loi de 2011 favorisant des collectivités fortes grâce au logement abordable* sont abrogés.

ENTRÉE EN VIGUEUR

Entrée en vigueur

150 (1) Sous réserve des paragraphes (2) à (6), la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) Les paragraphes 9 (1), 29 (2) et 30 (3), l'article 43, les paragraphes 47 (2) et (3), les articles 57, 58, 59 et 60, les paragraphes 82 (2), 120 (2) et 143 (3) et les articles 145 à 149 entrent en vigueur le jour où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.

(3) Le paragraphe 28 (2) entre en vigueur au 25^e anniversaire du jour où le paragraphe 3 (1) de l'annexe 7 de la *Loi de 2017 visant à réduire les formalités administratives inutiles* entre en vigueur.

(4) Le paragraphe 53 (2) entre en vigueur au troisième anniversaire du jour où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.

(5) Les articles 61 à 68 et 70 à 81, le paragraphe 82 (1), les articles 83 à 87 et 89 à 107, le paragraphe 108 (3), les articles 109 et 110, le paragraphe 111 (3), les articles 112 à 119, les paragraphes 120 (1) et (3), les articles 121 à 142, les paragraphes 143 (1), (2), (4), (5) et (6) et l'article 144 entrent en vigueur le dernier en date du jour de l'entrée en vigueur du paragraphe 4 (1) de la *Loi de 2010 sur les organisations sans but lucratif* et du jour où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.

(6) Les articles 69 et 88 et les paragraphes 108 (1) et (2) et 111 (1) et (2) entrent en vigueur le dernier en date du jour de l'entrée en vigueur du paragraphe 4 (1) de la *Loi de 2010 sur les organisations sans but lucratif* et du 60^e jour qui suit celui où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.

ANNEXE 9

MINISTÈRE DES SERVICES GOUVERNEMENTAUX ET DES SERVICES AUX CONSOMMATEURS —
LOIS TRAITANT DES ENREGISTREMENTS ET AUTRES LOIS

LOI ARTHUR WISHART DE 2000 SUR LA DIVULGATION RELATIVE AUX FRANCHISES

1 (1) Les sous alinéas a) (i) et (ii) de la définition de «franchise» au paragraphe 1 (1) de la Loi Arthur Wishart de 2000 sur la divulgation relative aux franchises sont abrogés et remplacés par ce qui suit :

- (i) d'une part, le franchiseur concède au franchiseé le droit de vendre, de fournir, de mettre en vente, d'offrir ou de distribuer des biens ou des services qui sont essentiellement associés à la marque de commerce, à l'appellation commerciale, au logo, à un symbole publicitaire ou autre symbole commercial qui appartient au franchiseur ou à la personne qui a un lien avec lui ou dont la licence d'utilisation lui a été octroyée,
- (ii) d'autre part, le franchiseur ou la personne qui a un lien avec lui a le droit d'exercer ou exerce un contrôle important sur le mode d'exploitation du franchiseé, notamment la conception et l'ameublement du bâtiment, les emplacements, l'organisation de l'activité commerciale, les techniques de commercialisation ou la formation, ou a le droit de lui apporter ou lui apporte une aide importante à cet égard;

(2) Le sous alinéa b) (i) de la définition de «franchise» au paragraphe 1 (1) de la Loi est modifié par suppression de «une marque de service»,.

(3) L'alinéa b) de la définition de «système de franchise» au paragraphe 1 (1) de la Loi est modifié par suppression de «d'une marque de service»,.

2 (1) La disposition 4 du paragraphe 2 (3) de la Loi est modifiée par suppression de «d'une marque de service»,.

(2) La disposition 5 du paragraphe 2 (3) de la Loi est abrogée et remplacée par ce qui suit :

- 5. Un arrangement découlant d'une entente conclue entre un concédant et un licencié unique pour accorder une licence d'utilisation d'une marque de commerce, d'une appellation commerciale, d'un logo ou d'un symbole publicitaire ou autre symbole commercial particulier dans les cas où cette licence est la seule de cette nature et de ce type qu'accorde le concédant à leur égard au Canada.

3 (1) Les alinéas 5 (1) a) et b) de la Loi sont abrogés et remplacés par ce qui suit :

- a) le franchiseé éventuel signe le contrat de franchisage ou toute autre entente relative à la franchise, à l'exception d'une entente visée au paragraphe (1.1);
- b) le franchiseé éventuel verse une contrepartie relative à la franchise au franchiseur ou à la personne qui a un lien avec lui ou une telle contrepartie est versée pour son compte, à l'exception d'un dépôt si celui-ci satisfait aux conditions suivantes :
 - (i) il ne dépasse pas la somme prescrite,
 - (ii) il est remboursable sans aucune déduction,
 - (iii) il est versé dans le cadre d'une entente qui n'oblige d'aucune façon le franchiseé éventuel à conclure un contrat de franchisage.

(2) L'article 5 de la Loi est modifié par adjonction des paragraphes suivants :

Exception

- 1.1) Les alinéas (1) a) et (5) a) ne s'appliquent pas à une entente contenant uniquement des conditions qui, selon le cas
 - a) exigent que les renseignements ou les documents pouvant être fournis au franchiseé éventuel demeurent confidentiels,
 - b) interdisent l'utilisation des renseignements ou des documents pouvant être fournis au franchiseé éventuel,
 - c) désignent un emplacement, un lieu ou un territoire pour le franchiseé éventuel.

Idem

- 1.2) Malgré le paragraphe (1.1), les alinéas (1) a) et (5) a) s'appliquent à une entente contenant des conditions qui
 - a) sont exigent que les renseignements demeurent confidentiels ou en interdisent l'utilisation si les renseignements, selon le cas :
 - (i) relèvent du domaine public autrement qu'en raison d'une contravention à l'entente,
 - (ii) sont divulgués à quiconque autrement qu'en raison d'une contravention à l'entente,
 - (iii) sont divulgués avec le consentement de toutes les parties à l'entente;

- b) soit interdisent la divulgation des renseignements à un organisme de franchisés, à d'autres franchisés du même système de franchise ou aux conseillers professionnels du franchisé.

(3) Les alinéas 5 (5) a) et b) de la Loi sont abrogés et remplacés par ce qui suit :

- a) le franchisé éventuel signe le contrat de franchisage ou toute autre entente relative à la franchise, à l'exception d'une entente visée au paragraphe (1.1);
- b) le franchisé éventuel verse une contrepartie relative à la franchise au franchiseur ou à la personne qui a un lien avec lui ou une telle contrepartie est versée pour son compte, à l'exception d'un dépôt si celui-ci satisfait aux conditions suivantes :
- (i) il ne dépasse pas la somme prescrite,
 - (ii) il est remboursable sans aucune déduction,
 - (iii) il est versé dans le cadre d'une entente qui n'oblige d'aucune façon le franchisé éventuel à conclure un contrat de franchisage.

(4) L'article 5 de la Loi est modifié par adjonction du paragraphe suivant :

Contenu de la déclaration

(5.1) La déclaration qui fait état d'un changement important comprend les renseignements prescrits.

(5) L'alinéa 5 (7) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) la concession d'une franchise à une personne, pour son propre compte, ou à une personne morale qu'elle contrôle, si la personne, selon le cas :
- (i) a été, pendant au moins six mois, un dirigeant ou un administrateur du franchiseur ou de la personne qui a un lien avec lui et l'est encore actuellement,
 - (ii) a été, pendant au moins six mois, un dirigeant ou un administrateur du franchiseur ou de la personne qui a un lien avec lui, et au plus quatre mois se sont écoulés depuis qu'elle a cessé de l'être;

(6) L'alinéa 5 (7) e) de la Loi est abrogé et remplacé par ce qui suit :

- e) la concession à une personne d'une franchise visant la vente de biens ou la fourniture de services dans le cadre d'une activité commerciale dans laquelle cette personne a un intérêt si les ventes liées à ces biens ou services au cours de la première année d'exploitation de la franchise auxquelles s'attendent ou devraient s'attendre les parties lors de la conclusion du contrat de franchisage ne dépassent pas un pourcentage prescrit des ventes totales de l'activité commerciale au cours de cette année;

(7) Le sous-alinéa 5 (7) g) (i) de la Loi est abrogé et remplacé par ce qui suit :

- (i) le franchisé éventuel est tenu de faire un investissement initial, calculé de la manière prescrite, qui ne dépasse pas la somme prescrite,

(8) L'alinéa 5 (7) h) de la Loi est abrogé et remplacé par ce qui suit :

- h) la concession d'une franchise si le franchisé éventuel est tenu de faire un investissement initial, calculé de la manière prescrite, qui est supérieur à la somme prescrite.

4 (1) Le paragraphe 14 (1) de la Loi est modifié par adjonction des alinéas suivants :

- a.1) prescrire une somme pour l'application du sous-alinéa 5 (1) b) (i) ou (5) b) (i);
- f.1) prescrire les renseignements que doit comprendre la déclaration qui fait état d'un changement important pour l'application du paragraphe 5 (5.1);

(2) Les alinéas 14 (1) h) et i) de la Loi sont abrogés et remplacés par ce qui suit :

- h) prescrire une manière ou une somme pour l'application du sous-alinéa 5 (7) g) (i) ou de l'alinéa 5 (7) h);

LOI DE 1998 SUR LES CONDOMINIUMS

5 Le paragraphe 5 (2) de la *Loi de 1998 sur les condominiums*, tel qu'il est réédité par l'article 3 de l'annexe 9 de la *Loi de 2012 sur une action énergique pour l'Ontario (mesures budgétaires)*, est modifié par remplacement de «aux règlements pris en application de la présente loi» par «aux règlements».

LOI PORTANT RÉFORME DE L'ENREGISTREMENT IMMOBILIER

6 L'article 21 de la *Loi portant réforme de l'enregistrement immobilier* est abrogé et remplacé par ce qui suit :

Forme écrite et signature

21 (1) Malgré l'article 2 de la *Loi relative aux preuves littérales*, l'article 9 de la *Loi sur les actes translatifs de propriété et le droit des biens* ou toute autre loi ou règle de droit, les documents électroniques n'ont pas à être sous forme écrite ni signés par les parties.

Idem

(2) Les documents électroniques qui ne sont pas sous forme écrite ni signés par les parties valent ceux qui sont sous forme écrite et sont signés par les parties.

LOI SUR L'ENREGISTREMENT DES DROITS IMMOBILIERS

7 L'article 67 de la *Loi sur l'enregistrement des droits immobiliers* est abrogé et remplacé par ce qui suit :

Désignation du propriétaire enregistré

67 Sous réserve de l'article 64, le propriétaire enregistré qui n'est pas une personne morale ne peut être inscrit en qualité de propriétaire d'un bien-fonds ou d'une charge, à moins qu'il ne soit désigné, selon le cas :

- a) par son nom unique, si la personne a un nom unique, mais pas de nom de famille ou de prénom;
- b) par son nom de famille et son premier prénom au complet, suivi d'un de ses autres prénoms au complet, le cas échéant, si la personne n'a pas de nom unique.

LOI SUR LES SÛRETÉS MOBILIÈRES

8 Le paragraphe 7 (2) de la *Loi sur les sûretés mobilières* est abrogé et remplacé par ce qui suit :

Changement de ressort

(2) Si une sûreté à laquelle s'applique le paragraphe (1) est rendue opposable par application de la loi du ressort où se trouve le débiteur, et que ce ressort change par suite d'un changement dans un facteur permettant d'établir le lieu où se trouve le débiteur en application du paragraphe (3), la sûreté demeure opposable uniquement jusqu'au premier en date des jours suivants :

- a) le 60^e jour qui suit celui où le ressort où se trouve le débiteur change;
- b) le 15^e jour qui suit celui où le créancier garanti apprend que le ressort où se trouve le débiteur a changé;
- c) le jour où la sûreté n'est plus opposable en vertu de la loi précédemment applicable.

Application du par. (2)

(2.1) Il est entendu que si un changement du ressort où se trouve le débiteur survient le 31 décembre 2015, et ce uniquement par suite de l'application des paragraphes 7 (3), (4) et (5) de la présente loi, dans leur version en vigueur ce jour-là, et non par suite d'un changement dans un facteur permettant d'établir le lieu où se trouve le débiteur, le paragraphe 7.2 (7) s'applique au changement plutôt que le paragraphe (2) du présent article.

9 Les paragraphes 7.1 (6) et (7) de la *Loi* sont abrogés et remplacés par ce qui suit :

Changement de ressort

(6) Si une sûreté à laquelle s'applique le paragraphe (5) est rendue opposable par application de la loi du ressort où se trouve le débiteur, et que ce ressort change par suite d'un changement dans un facteur permettant d'établir le lieu où se trouve le débiteur en application du paragraphe 7 (3), la sûreté demeure opposable uniquement jusqu'au premier en date des jours suivants :

- a) le 60^e jour qui suit celui où le ressort où se trouve le débiteur change;
- b) le 15^e jour qui suit celui où le créancier garanti apprend que le ressort où se trouve le débiteur a changé;
- c) le jour où la sûreté n'est plus opposable en vertu de la loi précédemment applicable.

Application du par. (6)

(6.1) Il est entendu que si un changement du ressort où se trouve le débiteur survient le 31 décembre 2015, et ce uniquement par suite de l'application des paragraphes 7 (3), (4) et (5) de la présente loi, dans leur version en vigueur ce jour-là, et non par suite d'un changement dans un facteur permettant d'établir le lieu où se trouve le débiteur, le paragraphe 7.3 (6) s'applique au changement plutôt que le paragraphe (6) du présent article.

Idem

(7) Si une sûreté à laquelle s'applique l'alinéa (2) b), c) ou d) est rendue opposable par application de la loi du ressort de l'émetteur, de l'intermédiaire en valeurs mobilières ou de l'intermédiaire en contrats à terme, selon le cas, et que ce ressort change, selon ce qui est établi en application de l'alinéa (3) b) ou c) ou du paragraphe (4), la sûreté demeure opposable uniquement jusqu'au premier en date des jours suivants :

- a) le 60^e jour qui suit celui où le ressort de l'émetteur, de l'intermédiaire en valeurs mobilières ou de l'intermédiaire en contrats à terme, selon le cas, change;
- b) le 15^e jour qui suit celui où le créancier garanti apprend que le ressort de l'émetteur, de l'intermédiaire en valeurs mobilières ou de l'intermédiaire en contrats à terme, selon le cas, a changé;
- c) le jour où la sûreté n'est plus opposable en vertu de la loi précédemment applicable.

10 (1) Les dispositions suivantes de l'article 7.2 de la Loi sont modifiées par remplacement de «le jour de l'entrée en vigueur du paragraphe 3 (2) de l'annexe E de la Loi de 2006 du ministère des Services gouvernementaux sur la modernisation des services et de la protection du consommateur» par «le 31 décembre 2015» partout où figure cette expression :

- 1. La définition de «loi antérieure» au paragraphe (1).**
- 2. Le paragraphe (2).**
- 3. Le paragraphe (3).**
- 4. Le paragraphe (6).**
- 5. Le paragraphe (9).**
- 6. Le paragraphe (10).**
- 7. Le paragraphe (12).**

(2) Les paragraphes 7.2 (7) et (8) de la Loi sont abrogés et remplacés par ce qui suit :

Idem

(7) Dans le cas d'une sûreté antérieure qui est opposable en vertu de la loi antérieure immédiatement avant le 31 décembre 2015 :

- a) si le ressort où se trouve le débiteur ce jour-là, selon ce qui est établi en application des paragraphes 7 (3), (4) et (5) de la présente loi, dans leur version en vigueur ce jour-là, diffère de celui où il se trouvait selon ce qui était établi en application de la loi antérieure;
- b) si la différence découle uniquement de l'application des paragraphes 7 (3), (4) et (5) et non d'un changement dans un facteur permettant d'établir le lieu où se trouve le débiteur en application du paragraphe 7 (3).

la sûreté antérieure demeure opposable uniquement jusqu'au premier en date de ce qui suit :

- 1. Le début du jour du 31 décembre 2020.**
- 2. Le début du jour où elle n'est plus opposable en vertu de la loi antérieure.**
- 3. La fin du jour fixé en application du paragraphe 7 (2), si le ressort où se trouve le débiteur le 31 décembre 2015, selon ce qui est établi en application des paragraphes 7 (3), (4) et (5) de la présente loi, change après ce jour-là par suite d'un changement dans un facteur permettant d'établir le lieu où se trouve le débiteur en application du paragraphe 7 (3).**

Idem

(8) Le 31 décembre 2015 ou par la suite, mais avant le premier en date des jours visés aux dispositions 1, 2 et 3 du paragraphe (7) du présent article, la sûreté antérieure visée au paragraphe (7) qui est rendue opposable conformément à la loi applicable, selon ce qui est établi en application de la présente loi, est réputée opposable sans interruption à partir du jour où elle a été rendue opposable en vertu de la loi antérieure.

11 (1) Les dispositions suivantes de l'article 7.3 de la Loi sont modifiées par remplacement de «le jour de l'entrée en vigueur du paragraphe 3 (2) de l'annexe E de la Loi de 2006 du ministère des Services gouvernementaux sur la modernisation des services et de la protection du consommateur» par «le 31 décembre 2015» partout où figure cette expression :

- 1. La définition de «loi antérieure» au paragraphe (1).**
- 2. Le paragraphe (2).**
- 3. Le paragraphe (3).**

(2) Les paragraphes 7.3 (6) et (7) de la Loi sont abrogés et remplacés par ce qui suit :

Opposabilité

(6) Dans le cas d'une sûreté antérieure qui a été rendue opposable par enregistrement et qui est telle en vertu de la loi antérieure immédiatement avant le 31 décembre 2015 :

- a) si le ressort où se trouve le débiteur ce jour-là, selon ce qui est établi en application des paragraphes 7 (3), (4) et (5) de la présente loi, dans leur version en vigueur ce jour-là, diffère de celui où il se trouvait selon ce qui était établi en application de la loi antérieure;
- b) si la différence découle uniquement de l'application des paragraphes 7 (3), (4) et (5) et non d'un changement dans un facteur permettant d'établir le lieu où se trouve le débiteur en application du paragraphe 7 (3).

la sûreté antérieure demeure opposable uniquement jusqu'au premier en date de ce qui suit :

1. Le début du jour du 31 décembre 2020.
2. Le début du jour où elle n'est plus opposable en vertu de la loi antérieure.
3. La fin du jour fixe en application du paragraphe 7.1 (6), si le ressort où se trouve le débiteur le 31 décembre 2015, selon ce qui est établi en application des paragraphes 7 (3), (4) et (5) de la présente loi, change après ce jour-là par suite d'un changement dans un facteur permettant d'établir le lieu où se trouve le débiteur en application du paragraphe 7 (3).

Idem

(7) Le 31 décembre 2015 ou par la suite, mais avant le premier en date des jours visés aux dispositions 1, 2 et 3 du paragraphe (6) du présent article, la sûreté antérieure visée au paragraphe (6) qui est rendue opposable conformément à la loi applicable, selon ce qui est établi en application de la présente loi, est réputée opposable sans interruption à partir du jour où elle a été rendue opposable en vertu de la loi antérieure.

12 La Loi est modifiée par adjonction des articles suivants :

Aucun risque d'être induit en erreur

46.1 (1) Pour l'application du paragraphe 46 (4), dans le cas d'un état de financement ou d'un état de modification du financement à l'égard d'un bien grevé qui constitue ou comprend un véhicule automobile, au sens des règlements, le fait que l'état contient une ou plusieurs erreurs ou omissions visées au paragraphe (2) du présent article est réputé non susceptible d'induire substantiellement en erreur une personne raisonnable, dans la mesure où est visée la sûreté sur le véhicule automobile, si, à la fois :

- a) le numéro d'identification du véhicule est indiqué correctement à l'endroit désigné sur l'état;
- b) l'état indique le nom d'au moins un débiteur et, si ce dernier est une personne physique, sa date de naissance;
- c) l'état répond par ailleurs, pour l'essentiel, aux exigences qui s'appliquent conformément au paragraphe 46 (1).

Erreurs ou omissions auxquelles le par. (1) s'applique

(2) Les erreurs ou omissions auxquelles le paragraphe (1) s'applique sont les suivantes :

1. Concernant tout débiteur nommé dans l'état, son nom est indiqué de façon incorrecte ou non conforme aux exigences qui s'appliquent conformément au paragraphe 46 (1).
2. Concernant tout débiteur nommé dans l'état qui est une personne physique, sa date de naissance est indiquée de façon incorrecte ou non conforme aux exigences qui s'appliquent conformément au paragraphe 46 (1).

Risque d'être induit en erreur

46.2 Pour l'application du paragraphe 46 (4), dans le cas d'un état de financement ou d'un état de modification du financement à l'égard d'un bien grevé qui constitue ou comprend un véhicule automobile, au sens des règlements, une ou plusieurs des erreurs ou omissions suivantes dans l'état sont réputées susceptibles d'induire substantiellement en erreur une personne raisonnable, dans la mesure où est visée la sûreté sur le véhicule automobile :

1. Dans le cas d'un véhicule automobile classé à titre de bien de consommation dans l'état :
 - i. aucun numéro d'identification du véhicule n'est indiqué dans l'état à l'égard du véhicule automobile;
 - ii. un numéro d'identification du véhicule est indiqué dans l'état à l'égard du véhicule automobile, mais pas à l'endroit désigné;
 - iii. un numéro d'identification du véhicule est indiqué dans l'état à l'égard du véhicule automobile, mais il est incorrect.
2. Dans le cas d'un véhicule automobile classé à titre de matériel ou de stock dans l'état et que l'état indique un numéro d'identification du véhicule à l'égard du véhicule automobile, même si ce renseignement n'est pas exigé
 - i. le numéro d'identification du véhicule n'est pas indiqué à l'endroit désigné dans l'état;
 - ii. le numéro d'identification du véhicule indiqué est incorrect.

Aucune restriction

46.3 Les articles 46.1 et 46.2 n'ont aucune incidence sur l'application du paragraphe 46 (4) dans les circonstances non visées à ces articles.

LOI SUR L'ENREGISTREMENT DES ACTES

13 Le paragraphe 48 (2) de la Loi sur l'enregistrement des actes est abrogé et remplacé par ce qui suit :

Désignation du cessionnaire

(2) Un acte n'est enregistré que s'il désigne chaque cessionnaire qui est une personne physique :

- a) soit par son nom unique, si le cessionnaire a un nom unique, mais pas de nom de famille ou de prénom;
- b) soit par son nom de famille et son premier prénom au complet, suivi d'un de ses autres prénoms au complet, le cas échéant, si le cessionnaire n'a pas de nom unique.

LOI SUR LE PRIVILÈGE DES RÉPARATEURS ET DES ENTREPOSEURS

14 L'article 9 de la Loi sur le privilège des réparateurs et des entreposeurs est modifié par adjonction des paragraphes suivants :

Aucun risque d'être induit en erreur

(3) Pour l'application du paragraphe (2), dans le cas d'une revendication de privilège ou d'un état de modification à l'égard d'un véhicule automobile ou de deux articles ou plus qui comprennent un véhicule automobile, le fait que la revendication de privilège ou l'état de modification contienne une ou plusieurs erreurs ou omissions visées au paragraphe (4) est réputé non susceptible d'induire substantiellement en erreur une personne raisonnable, dans la mesure où est visé le privilège sur le véhicule automobile, si, à la fois :

- a) le numéro d'identification du véhicule est indiqué correctement à l'endroit désigné dans la revendication de privilège ou l'état de modification;
- b) la revendication de privilège ou l'état de modification indique le nom d'au moins un débiteur et, si ce dernier est une personne physique, sa date de naissance;
- c) la revendication de privilège ou l'état de modification répond par ailleurs, pour l'essentiel, aux exigences qui s'appliquent conformément au paragraphe (1).

Erreurs ou omissions auxquelles le par. (3) s'applique

(4) Les erreurs ou omissions auxquelles le paragraphe (3) s'applique sont les suivantes :

1. Concernant tout débiteur nommé dans la revendication de privilège ou l'état de modification, son nom est indiqué de façon incorrecte ou non conforme aux exigences qui s'appliquent conformément au paragraphe (1).
2. Concernant tout débiteur nommé dans la revendication de privilège ou l'état de modification qui est une personne physique, sa date de naissance est indiquée de façon incorrecte ou non conforme aux exigences qui s'appliquent conformément au paragraphe (1).

Risque d'être induit en erreur

(5) Pour l'application du paragraphe (2), dans le cas d'une revendication de privilège ou d'un état de modification à l'égard d'un véhicule automobile ou de deux articles ou plus qui comprennent un véhicule automobile, une ou plusieurs des erreurs ou omissions suivantes dans la revendication de privilège ou l'état de modification sont réputées susceptibles d'induire substantiellement en erreur une personne raisonnable, dans la mesure où est visé le privilège sur le véhicule automobile :

1. Aucun numéro d'identification du véhicule n'est indiqué dans la revendication de privilège ou l'état de modification à l'égard du véhicule automobile.
2. Un numéro d'identification du véhicule est indiqué dans la revendication de privilège ou l'état de modification à l'égard du véhicule automobile, mais pas à l'endroit désigné.
3. Un numéro d'identification du véhicule est indiqué dans la revendication de privilège ou l'état de modification à l'égard du véhicule automobile, mais il est incorrect.

Aucune restriction

(6) Les paragraphes (3), (4) et (5) n'ont aucune incidence sur l'application du paragraphe (2) dans les circonstances non visées aux paragraphes (3), (4) et (5).

ENTRÉE EN VIGUEUR**Entrée en vigueur**

15 (1) Sous réserve des paragraphes (2) et (3), la présente annexe entre en vigueur le jour où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.

(2) Les articles 3 et 4 entrent en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(3) L'article 5 entre en vigueur le jour de l'entrée en vigueur de l'article 3 de l'annexe 9 de la *Loi de 2012 sur une action énergique pour l'Ontario (mesures budgétaires)*.

ANNEXE 10
MINISTÈRE DES AFFAIRES MUNICIPALES

LOI DE 1996 SUR LES ÉLECTIONS MUNICIPALES

1 Les paragraphes 88.33 (5) et (6) de la *Loi de 1996 sur les élections municipales* sont abrogés et remplacés par ce qui suit :

Avis de réunion

(5) Un avis raisonnable des réunions que tient le comité en application du présent article est donné au candidat, à l'auteur de la demande et au public.

Réunions publiques

(5.1) Les réunions que tient le comité en application du présent article sont ouvertes au public, mais le comité peut délibérer en privé.

Idem

(6) Le paragraphe (5.1) s'applique malgré les articles 207 et 208.1 de la *Loi sur l'éducation*.

2 Les paragraphes 88.34 (9) et (10) de la Loi sont abrogés et remplacés par ce qui suit :

Avis de réunion

(9) Un avis raisonnable des réunions du comité visées au paragraphe (8) est donné au donateur, au candidat concerné et au public.

Réunions publiques

(9.1) Les réunions du comité visées au paragraphe (8) sont ouvertes au public, mais le comité peut délibérer en privé.

Idem

(10) Le paragraphe (9.1) s'applique malgré les articles 207 et 208.1 de la *Loi sur l'éducation*.

3 Le paragraphe 88.36 (6) de la Loi est abrogé et remplacé par ce qui suit :

Avis de réunion

(6) Un avis raisonnable des réunions du comité visées au paragraphe (5) est donné au donateur, au tiers inscrit et au public.

Réunions publiques

(6.1) Les réunions du comité visées au paragraphe (5) sont ouvertes au public, mais le comité peut délibérer en privé.

ENTRÉE EN VIGUEUR

4 (1) Sous réserve du paragraphe (2), la présente annexe entre en vigueur le jour où la *Loi de 2017* visant à réduire les formalités administratives inutiles reçoit la sanction royale.

(2) Les articles 2 et 3 entrent en vigueur le dernier en date du jour de l'entrée en vigueur de l'article 65 de la *Loi de 2016 sur la modernisation des élections municipales* et du jour où la *Loi de 2017* visant à réduire les formalités administratives inutiles reçoit la sanction royale.

ANNEXE 11 MODIFICATIONS EN VUE DE L'ACCESSIBILITÉ

LOI SUR LES DÉBITEURS EN FUITÉ

1 (1) Le paragraphe 16 (1) de la *Loi sur les débiteurs en fuite* est modifié par remplacement de «Un acte de vente mobilière selon la formule annexée à la présente loi» par «Un acte de vente mobilière rédigé selon le formulaire prescrit par règlement en vertu du paragraphe (3)».

(2) L'article 16 de la Loi est modifié par adjonction du paragraphe suivant :

Règlements : formulaire d'acte de vente mobilière

(3) Le ministre chargé de l'application de la présente loi peut, par règlement, prescrire le formulaire d'acte de vente mobilière pour l'application du paragraphe (1).

2 La formule de la Loi est abrogée.

LOI SUR LA MISE EN LIBERTÉ SOUS CAUTION

3 (1) L'article 1 de la *Loi sur la mise en liberté sous caution* est modifié par suppression de «(formule 1)».

(2) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Formulaire de certificat

(2) Le certificat de privilège est rédigé selon le formulaire prescrit par règlement en vertu de la présente loi.

4 (1) L'article 7 de la Loi est modifié par suppression de «(formule 2)».

(2) L'article 7 de la Loi est modifié par adjonction du paragraphe suivant :

Formulaire de certificat

(2) Le certificat de mainlevée de privilège est rédigé selon le formulaire prescrit par règlement en vertu de la présente loi.

5 La Loi est modifiée par adjonction de l'article suivant :

Règlements

9 Le ministre chargé de l'application de la présente loi peut, par règlement, prescrire des formulaires pour l'application de la présente loi et prévoir les modalités de leur emploi.

6 Les formules 1 et 2 de la Loi sont abrogées.

LOI SUR LES TRIBUNAUX JUDICIAIRES

7 L'article 1.1 de la *Loi sur les tribunaux judiciaires* est abrogé et remplacé par ce qui suit :

Mention des anciennes appellations des tribunaux

En anglais

1.1 (1) La mention, dans la version anglaise d'une loi, d'une règle ou d'un règlement, d'un tribunal sous son ancienne appellation ou d'un fonctionnaire sous son ancien titre, lesquels figurent dans la colonne 1 du tableau suivant, ou sous une version abrégée de cette appellation ou de ce titre est réputée, sauf intention contraire manifeste, la mention de la nouvelle appellation de ce tribunal ou celle du nouveau titre de ce fonctionnaire figurant dans la colonne 2.

TABLEAU

Colonne 1 Anciennes appellations et anciens titres	Colonne 2 Nouvelles appellations et nouveaux titres
Ontario Court of Justice	Court of Ontario
Ontario Court (General Division)	Superior Court of Justice
Ontario Court (Provincial Division)	Ontario Court of Justice
Chief Justice of the Ontario Court of Justice	Chief Justice of the Superior Court of Justice
Associate Chief Justice of the Ontario Court of Justice	Associate Chief Justice of the Superior Court of Justice
Associate Chief Justice (Family Court) of the Ontario Court of Justice	Associate Chief Justice (Family Court) of the Superior Court of Justice
Chief Judge of the Ontario Court (Provincial Division)	Chief Justice of the Ontario Court of Justice
Associate Chief Judge of the Ontario Court (Provincial Division)	Associate Chief Justice of the Ontario Court of Justice
Associate Chief Judge-Coordinator of Justices of the Peace	Associate Chief Justice-Coordinator of Justices of the Peace
Accountant of the Ontario Court	Accountant of the Superior Court of Justice

En français

(2) La mention, dans la version française d'une loi, d'une règle ou d'un règlement, d'un tribunal sous son ancienne appellation ou d'un fonctionnaire sous son ancien titre, lesquels figurent dans la colonne 1 du tableau suivant, ou sous une version abrégée de cette appellation ou de ce titre est réputée, sauf intention contraire manifeste, la mention de la nouvelle appellation de ce tribunal ou celle du nouveau titre de ce fonctionnaire figurant dans la colonne 2.

TABLEAU

Colonne 1	Colonne 2
Anciennes appellations et anciens titres	Nouvelles appellations et nouveaux titres
Cour de justice de l'Ontario	Cour de l'Ontario
Cour de l'Ontario (Division générale)	Cour supérieure de justice
Cour de l'Ontario (Division provinciale)	Cour de justice de l'Ontario
Juge en chef de la Cour de justice de l'Ontario	Juge en chef de la Cour supérieure de justice
Juge en chef adjoint de la Cour de justice de l'Ontario	Juge en chef adjoint de la Cour supérieure de justice
Juge en chef adjoint (Cour de la famille) de la Cour de justice de l'Ontario	Juge en chef adjoint (Cour de la famille) de la Cour supérieure de justice
Juge en chef de la Cour de l'Ontario (Division provinciale)	Juge en chef de la Cour de justice de l'Ontario
Juge en chef adjoint de la Cour de l'Ontario (Division provinciale)	Juge en chef adjoint de la Cour de justice de l'Ontario
Juge en chef adjoint-coordonnateur des juges de paix	Juge en chef adjoint et coordonnateur des juges de paix
Comptable de la Cour de l'Ontario	Comptable de la Cour supérieure de justice

Mentions plus récentes de la Cour de justice de l'Ontario

(3) Les paragraphes (1) et (2) ne s'appliquent pas aux mentions de la Cour de justice de l'Ontario adoptées ou faites le 19 avril 1999 ou après cette date.

LOI SUR L'ADMINISTRATION DES SUCCESSIONS

8 (1) Le paragraphe 9 (1) de la *Loi sur l'administration des successions* est modifié par remplacement de «selon la formule 1» par «selon le formulaire prescrit par règlement en vertu du paragraphe (7)».

(2) Le paragraphe 9 (4) de la Loi est modifié par remplacement de «selon la formule 2» par «selon le formulaire prescrit par règlement en vertu du paragraphe (7)».

(3) Le paragraphe 9 (5) de la Loi est modifié par remplacement de «selon la formule 3» par «selon le formulaire prescrit par règlement en vertu du paragraphe (7)» à la fin du paragraphe.

(4) L'article 9 de la Loi est modifié par adjonction du paragraphe suivant :

Règlements : formulaires

(7) Le ministre chargé de l'application de la présente loi peut, par règlement, prescrire des formulaires pour l'application du présent article et prévoir les modalités de leur emploi.

9 Les formules 1, 2 et 3 de la Loi sont abrogées.

LOI SUR LE PRIVILÈGE DES TRAVAILLEURS FORESTIERS PORTANT SUR LEUR SALAIRE

10 La version française du titre abrégé de la *Loi sur le privilège des travailleurs forestiers portant sur leur salaire* est abrogée et remplacée par ce qui suit :

Loi sur le privilège garantissant le paiement du salaire des travailleurs forestiers

11 Les paragraphes 5 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :

Dépôt d'une revendication de privilège

(1) La personne qui revendique le privilège énonce sa réclamation par écrit sur le formulaire prévu à cet effet, en y indiquant brièvement la nature de sa réclamation, le montant qu'elle réclame et une description des billes ou du bois d'oeuvre sur lesquels elle revendique un privilège.

Attestation par affidavit

(2) Le réclamant, son avocat ou son mandataire atteste, par voie d'affidavit, l'existence de sa réclamation.

Formulaire

(2.1) La revendication de privilège et l'affidavit visés aux paragraphes (1) et (2) sont présentés en français ou en anglais selon le formulaire approuvé par le ministre des Richesses naturelles et des Forêts et publié sur un site Web dont est responsable le gouvernement de l'Ontario.

12 Les formules 1 et 2 de la Loi sont abrogées.

LOI SUR LES ASSIGNATIONS INTERPROVINCIALES

13 (1) Le paragraphe 2 (2) de la *Loi sur les assignations interprovinciales* est modifié par remplacement de «selon la formule donnée à l'annexe 2 ou selon une formule similaire» par «selon le formulaire prescrit par règlement en vertu du paragraphe (3) ou selon un formulaire similaire» à la fin du paragraphe.

(2) L'article 2 de la Loi est modifié par adjonction du paragraphe suivant :

Règlements : formulaire de certificat

(3) Le ministre chargé de l'application de la présente loi peut, par règlement, prescrire un formulaire de certificat pour l'application du paragraphe (2).

14 Le paragraphe 5 (1) de la Loi est modifié par remplacement de «selon la formule donnée à l'annexe 2» par «selon le formulaire prescrit en vertu du paragraphe 2 (3)» dans le passage qui précède l'alinéa a).

15 L'annexe 2 de la Loi est abrogée.

LOI SUR L'ASSEMBLÉE LÉGISLATIVE

16 L'article 59 de la *Loi sur l'Assemblée législative* est abrogé et remplacé par ce qui suit :

Pouvoir des comités d'interroger sous serment ou affirmation solennelle

59 Tout comité permanent ou spécial de l'Assemblée peut exiger que des faits, des questions et des choses se rapportant à l'objet de son enquête soient vérifiés ou autrement établis en interrogeant les témoins, de vive voix et sous serment ou affirmation solennelle. Le président ou un membre quelconque du comité peut, à cette fin, faire prêter le serment suivant ou recevoir l'affirmation solennelle suivante, en français ou en anglais :

«Prêtez-vous serment (ou affirmez-vous solennellement) que le témoignage que vous rendrez au cours de la présente enquête du comité sera la vérité, toute la vérité et rien que la vérité? Ainsi Dieu vous soit en aide. (Omettre cette dernière phrase pour une affirmation.)»

17 L'article 101 de la Loi est abrogé et remplacé par ce qui suit :

Serment ou affirmation solennelle d'entrée en fonction

101 (1) Tout employé du Bureau de l'Assemblée, avant que son traitement ne lui soit versé, prête, fait et signe devant le président ou le greffier de l'Assemblée législative, ou quiconque est désigné par écrit à cette fin par l'un d'eux, le serment ou l'affirmation solennelle d'entrée en fonction et de confidentialité suivant, en français ou en anglais :

«Je soussigné(e), prête serment (ou affirme solennellement) que je m'acquitterai fidèlement de mes fonctions d'employé(e) du Bureau de l'Assemblée et que je respecterai les lois du Canada et de l'Ontario. À moins d'y être légalement tenu(e), je ne divulguerai ni ne donnerai à quiconque un renseignement ou un document dont j'aurai connaissance ou que j'aurai en ma possession dans l'exercice de mes fonctions. Ainsi Dieu me soit en aide. (Omettre cette dernière phrase pour une affirmation.)»

Serment ou affirmation solennelle d'allégeance

(2) Tout employé du Bureau de l'Assemblée, avant de remplir toute fonction à ce titre, prête, fait et signe devant le président ou le greffier de l'Assemblée législative, ou quiconque est désigné par écrit à cette fin par l'un d'eux, le serment ou l'affirmation solennelle d'allégeance suivant, en français ou en anglais :

«Je soussigné(e), prête serment (ou affirme solennellement) que je serai fidèle et que je porterai sincère allégeance à Sa Majesté la reine Elizabeth II (ou au souverain régnant), à ses héritiers et à ses successeurs conformément à la loi. Ainsi Dieu me soit en aide. (Omettre cette dernière phrase pour une affirmation.)»

18 Les formules 1, 2 et 3 de la Loi sont abrogées.

LOI DE 2006 SUR L'INTÉGRATION DU SYSTÈME DE SANTÉ LOCAL

19 L'alinéa f) de la version française du préambule de la *Loi de 2006 sur l'intégration du système de santé local* est modifié par remplacement de «respectent les exigences» par «respecter les exigences».

20 Le tableau du paragraphe 3 (1) de la Loi est abrogé et remplacé par ce qui suit :

TABLEAU
PERSONNES MORALES PROROGÉES EN TANT QU'ÉLÉMENTS DES RÉSEAUX LOCAUX D'INTÉGRATION
DES SERVICES DE SANTÉ

Pour	Colonne 1 Dénomination sociale française de la personne morale	Colonne 2 Dénomination sociale anglaise de la personne morale	Colonne 3 Date de constitution	Colonne 4 Dénomination sociale anglaise de la personne morale prorogée	Colonne 5 Dénomination sociale française de la personne morale prorogée
1	Central Health Integration Network	Réseau d'intégration des services de santé du	2 juin 2005	Central Local Health Integration Network	Réseau local d'intégration des services

		Centre			de santé du Centre
2.	Central East Health Integration Network	Réseau d'intégration des services de santé du Centre-Est	2 juin 2005	Central East Local Health Integration Network	Réseau local d'intégration des services de santé du Centre-Est
3.	Central West Health Integration Network	Réseau d'intégration des services de santé du Centre-Ouest	9 juin 2005	Central West Local Health Integration Network	Réseau local d'intégration des services de santé du Centre-Ouest
4.	Health Integration Network of Champlain	Réseau d'intégration des services de santé de Champlain	2 juin 2005	Champlain Local Health Integration Network	Réseau local d'intégration des services de santé de Champlain
5.	Health Integration Network of Erie St. Clair	Réseau d'intégration des services de santé d'Érie St-Clair	2 juin 2005	Erie St. Clair Local Health Integration Network	Réseau local d'intégration des services de santé d'Érie St-Clair
6.	Health Integration Network of Hamilton Niagara Haldimand Brant	Réseau d'intégration des services de santé de Hamilton Niagara Haldimand Brant	2 juin 2005	Hamilton Niagara Haldimand Brant Local Health Integration Network	Réseau local d'intégration des services de santé de Hamilton Niagara Haldimand Brant
7.	Health Integration Network of Mississauga Halton	Réseau d'intégration des services de santé de Mississauga Halton	9 juin 2005	Mississauga Halton Local Health Integration Network	Réseau local d'intégration des services de santé de Mississauga Halton
8.	North East Health Integration Network	Réseau d'intégration des services de santé du Nord-Est	9 juin 2005	North East Local Health Integration Network	Réseau local d'intégration des services de santé du Nord-Est
9.	Health Integration Network of North Simcoe Muskoka	Réseau d'intégration des services de santé de Simcoe Nord Muskoka	9 juin 2005	North Simcoe Muskoka Local Health Integration Network	Réseau local d'intégration des services de santé de Simcoe Nord Muskoka
10.	Local Health Integration Network (North West Ontario)	Réseau d'intégration des services de santé (Nord-Ouest de l'Ontario)	16 juin 2005	North West Local Health Integration Network	Réseau local d'intégration des services de santé du Nord-Ouest
11.	South East Health Integration Network	Réseau d'intégration des services de santé du Sud-Est	9 juin 2005	South East Local Health Integration Network	Réseau local d'intégration des services de santé du Sud-Est
12.	South West Health Integration Network	Réseau d'intégration des services de santé du Sud-Ouest	2 juin 2005	South West Local Health Integration Network	Réseau local d'intégration des services de santé du Sud-Ouest
13.	Health Integration Network of Toronto Central	Réseau d'intégration des services de santé du Centre-Toronto	2 juin 2005	Toronto Central Local Health Integration Network	Réseau local d'intégration des services de santé du Centre-Toronto
14.	Health Integration Network of Waterloo Wellington	Réseau d'intégration des services de santé de Waterloo Wellington	2 juin 2005	Waterloo Wellington Local Health Integration Network	Réseau local d'intégration des services de santé de Waterloo Wellington

LOI SUR LES HYPOTHÈQUES

21 Le paragraphe 26 (1) de la *Loi sur les hypothèques* est modifié par remplacement de «selon la formule faisant partie de la présente loi» par «selon le formulaire prescrit par les règlements pris en vertu de la présente loi».

22 Le paragraphe 31 (1) de la *Loi* est modifié par remplacement de «selon la formule faisant partie de la présente loi» par «selon le formulaire prescrit par les règlements pris en vertu de la présente loi» dans le passage qui précède la disposition 1.

23 La version française du paragraphe 47 (8) de la *Loi* est modifiée par remplacement de «selon la formule prescrite par les règlements pris en application de la présente loi» par «selon le formulaire prescrit par les règlements pris en vertu de la présente loi» à la fin du paragraphe.

24 L'article 58 de la *Loi* est modifié par remplacement de «la formule de l'avis visé au paragraphe 47 (8)» par «des formulaires pour l'application de la présente loi et prévoir les modalités de leur emploi» à la fin de l'article.

25 La formule de la *Loi* est abrogée.

LOI DE 2001 SUR LES MUNICIPALITÉS

26 Le tableau de l'article 11 de la *Loi de 2001 sur les municipalités* est abrogé et remplacé par ce qui suit :

TABLEAU

Point	Domaine de compétence	Partie du domaine attribuée	Municipalité(s) de palier supérieur à qui la partie du domaine est attribuée	Attribution exclusive ou non exclusive
1	Voies publiques, y compris le stationnement et la circulation sur celles-ci	Tout le domaine	Toutes les municipalités de palier supérieur	Non exclusive
2a	Réseaux de transport autres que les voies publiques	Aéroports	Toutes les municipalités de palier supérieur	Non exclusive
2b	Réseaux de transport autres que les voies publiques	Traversiers	Toutes les municipalités de palier supérieur	Non exclusive
2c	Réseaux de transport autres que les voies publiques	Réseaux de transport des personnes handicapées	Peel, Halton	Non exclusive
2d	Réseaux de transport autres que les voies publiques	Tout le domaine, à l'exception des aéroports et des traversiers	Waterloo, York	Exclusive
3	Gestion des déchets	Tout le domaine, à l'exception de la collecte des déchets	Durham, Halton, Lambton, Oxford, Peel, Waterloo, York	Exclusive
4a	Services publics	Épuration des eaux d'égout	Tous les comtés, Niagara, Waterloo, York	Non exclusive
4b	Services publics	Épuration des eaux d'égout	Durham, Halton, Muskoka, Oxford, Peel	Exclusive
4c	Services publics	Collecte des eaux domestiques	Tous les comtés, Niagara, Waterloo, York	Non exclusive
4d	Services publics	Collecte des eaux domestiques	Durham, Halton, Muskoka, Oxford, Peel	Exclusive
4e	Services publics	Collecte des eaux pluviales et des autres eaux drainées des biens-fonds	Toutes les municipalités de palier supérieur	Non exclusive
4f	Services publics	Production, traitement et stockage de l'eau	Toutes les municipalités de palier supérieur, à l'exception des comtés	Exclusive
4g	Services publics	Distribution de l'eau	Niagara, Waterloo, York	Non exclusive
4h	Services publics	Distribution de l'eau	Oxford, Durham, Halton, Muskoka, Peel	Exclusive
5	Culture, parcs, loisirs et patrimoine	Tout le domaine	Toutes les municipalités de palier supérieur	Non exclusive
6	Drainage et lutte contre les inondations, à l'exception des égouts pluviaux	Tout le domaine	Toutes les municipalités de palier supérieur	Non exclusive
7	Constructions, y compris les clôtures, les panneaux et les enseignes	Tout le domaine, à l'exception des clôtures, des panneaux et des enseignes	Oxford	Non exclusive
8	Stationnement autre que sur les voies publiques	Parcs de stationnement municipaux et constructions connexes	Toutes les municipalités de palier supérieur	Non exclusive
9	Animaux	Aucune	Aucune	Non assignée
10a	Services de développement économique	Promotion de la municipalité à toute fin par la collecte et la diffusion de renseignements	Durham	Exclusive
10b	Services de développement économique	Promotion de la municipalité à toute fin par la collecte et la diffusion de renseignements	Tous les comtés, Halton, Muskoka, Niagara, Oxford, Peel, Waterloo, York	Non exclusive
10c	Services de développement économique	Acquisition, aménagement et disposition d'emplacements à usage industriel, commercial ou institutionnel	Durham	Exclusive
10d	Services de développement économique	Acquisition, aménagement et disposition d'emplacements à usage	Halton, Lambton, Oxford, Waterloo	Non exclusive

		industriel, commercial ou institutionnel		
11a.	Délivrance de permis aux entreprises	Propriétaires et chauffeurs de taxis, de dépanneuses, d'autobus et de véhicules (autres que les véhicules automobiles) utilisés à des fins de location Agents de taxis Entreprises de récupération Entreprises de marchandises usagées	Niagara, Waterloo	Exclusive
11b.	Délivrance de permis aux entreprises	Entreprises de drainage et de plomberie	York	Exclusive
11c.	Délivrance de permis aux entreprises	Pensions et entreprises de fosses septiques	York	Non exclusive

LOI SUR LES RÉGIES DES SERVICES PUBLICS DU NORD

27 Le paragraphe 3 (4) de la *Loi sur les régies des services publics du Nord* est abrogé et remplacé par ce qui suit :

Avis

(4) La personne qui convoque une réunion en vertu du présent article rédige un avis de convocation en français et en anglais comportant les renseignements suivants :

- l'objet de la réunion et une description ou un dessin du territoire proposé de la régie;
- le lieu, la date et l'heure de la réunion;
- le nom proposé pour la régie proposée;
- un énoncé portant qu'il y aura un vote lors de la réunion;
- la date de l'avis et la signature de la personne qui convoque la réunion.

Mode de remise de l'avis

(4.1) La personne qui convoque la réunion :

- affiche l'avis de convocation dans au moins six endroits bien en vue dans le territoire proposé de la régie;
- envoie l'avis au ministre par la poste et par courrier électronique;
- publie l'avis dans un journal à grande diffusion dans le territoire proposé de la régie ou sur un site Web tenu aux fins de communication avec un groupe de personnes qui comprend les habitants de ce territoire, si l'un ou l'autre de ces moyens de communication est disponible.

Date de la réunion

(4.2) La date de la réunion précisée dans l'avis de convocation doit être postérieure d'au moins 14 jours au dernier affichage de l'avis ou, s'il a lieu après, à son envoi par courrier.

28 L'article 20 de la *Loi* est abrogé et remplacé par ce qui suit :

Contestation

20 (1) Si le droit de vote d'un habitant ou son éligibilité à une charge est contesté lors d'une assemblée d'élection, le président exige de l'habitant qu'il fasse une déclaration, en français ou en anglais, portant qu'il est un habitant au sens de l'article 1.

Déclaration

(2) La déclaration visée au paragraphe (1) est faite devant un commissaire aux affidavits, un notaire ou le secrétaire et, pour les besoins de l'assemblée d'élection, le secrétaire a le pouvoir de recevoir de telles déclarations.

Effet de la déclaration

(3) L'habitant qui fait la déclaration visée au paragraphe (1) a droit de vote ou est éligible à une charge.

29 Les formules 1 et 2 de la *Loi* sont abrogées.

LOI SUR LE PRIVILÈGE DES RÉPARATEURS ET DES ENTREPOSEURS

30 Le paragraphe 14 (1) de la *Loi sur le privilège des réparateurs et des entreposeurs* est abrogé et remplacé par ce qui suit :

Saisie de l'article

(1) Le créancier privilégié qui a un privilège non possessoire et qui a enregistré une revendication de privilège peut, en tout temps, remettre ce qui suit au shérif de la localité où l'article se trouve :

- a) une copie de la revendication de privilège enregistrée;
- b) l'ordre de saisie de l'article, rédigé selon le formulaire prescrit.

31 L'article 23 de la Loi est modifié par adjonction du paragraphe suivant :

Formulaire de requête

(3) La requête présentée en vertu du paragraphe (1) à la Cour des petites créances est rédigée selon le formulaire prescrit.

32 (1) Le paragraphe 24 (3) de la Loi est modifié par remplacement de «la formule exigée» par «le formulaire prescrit».

(2) Le paragraphe 24 (5) de la Loi est abrogé et remplacé par ce qui suit :

Certificat initial

(5) Lorsqu'une somme d'argent est consignée au tribunal ou qu'un dépôt y est effectué en vertu du paragraphe (4), le greffier du tribunal délivre un certificat initial rédigé selon le formulaire prescrit et revêtu du sceau du tribunal, selon lequel la somme indiquée dans le certificat initial y a été consignée ou déposée à titre de cautionnement aux fins de la requête. Le certificat initial précise également, le cas échéant, la partie de cette somme qui se rapporte à une offre de transaction sur le différend.

(3) Le paragraphe 24 (6) de la Loi est modifié par remplacement de «la formule exigée» par «le formulaire prescrit» à la fin du paragraphe.

(4) Le paragraphe 24 (7) de la Loi est abrogé et remplacé par ce qui suit :

Certificat définitif

(7) Advenant le dépôt d'une opposition au tribunal, le requérant peut y consigner ou y déposer à titre de cautionnement, aux fins de la requête, la somme supplémentaire réclamée dans l'opposition comme étant exigible. Lorsque la somme supplémentaire a été consignée ou que le cautionnement supplémentaire a été déposé, le greffier délivre un certificat définitif rédigé selon le formulaire prescrit et revêtu du sceau du tribunal.

(5) Le paragraphe 24 (9) de la Loi est modifié par insertion de «rédigé selon le formulaire prescrit» après «un bref de saisie».

(6) Le paragraphe 24 (11) de la Loi est modifié par remplacement de «la formule exigée» par «le formulaire prescrit» partout où figure cette expression.

(7) La version anglaise du paragraphe 24 (13) de la Loi est modifiée par remplacement de «posted» par «deposited».

(8) La version anglaise du paragraphe 24 (14) de la Loi est modifiée par remplacement de «posted» par «deposited».

(9) La version anglaise du paragraphe 24 (15) de la Loi est modifiée par remplacement de «posted» par «deposited».

33 Si le paragraphe 4 (1) de l'annexe 52 de la *Loi de 2012 sur une action énergique pour l'Ontario (mesures budgétaires)* n'est pas entré en vigueur au plus tard le jour de l'entrée en vigueur du présent article, l'alinéa 31.1 (1) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) préciser les formulaires autres que ceux visés à l'alinéa 33 a), les renseignements devant y figurer, la façon d'inscrire les renseignements, notamment les noms, et les personnes devant signer les formulaires;

34 L'alinéa 31.2 (1) a) de la Loi est abrogé et remplacé par ce qui suit :

- a) préciser les renseignements devant figurer dans les formulaires autres que ceux visés à l'alinéa 33 a), la façon d'inscrire les renseignements, notamment les noms, et les personnes devant signer les formulaires.

35 (1) L'alinéa 32 (1) b) de la Loi est abrogé.

(2) L'alinéa 32 (1) c) de la Loi est modifié par insertion de «, à l'exception des questions à l'égard desquelles l'article 33 autorise le ministre à prendre des règlements» à la fin de l'alinéa.

(3) L'article 32 de la Loi est modifié par adjonction du paragraphe suivant :

Reserve

(4) Les règlements pris par le lieutenant-gouverneur en conseil en vertu de l'alinéa 32 a) ou b), dans la version de ces alinéas qui est antérieure au 18 décembre 1998, restent en vigueur jusqu'à ce qu'ils soient abrogés.

36 La Loi est modifiée par adjonction de l'article suivant :**Règlements pris par le ministre****33 Le ministre chargé de l'application de la présente loi peut, par règlement :**

- a) prescrire les formulaires pour chacun des éléments suivants, les renseignements devant figurer dans chaque formulaire, la façon d'inscrire les renseignements, notamment les noms, et les personnes devant signer chaque formulaire :
 - (i) l'ordre de saisie de l'article prévu au paragraphe 14 (1),
 - (ii) la requête présentée à la Cour des petites créances en vertu de l'article 23,
 - (iii) la requête prévue à l'article 24,
 - (iv) le certificat initial prévu au paragraphe 24 (5),
 - (v) l'avis d'opposition par l'intimé prévu au paragraphe 24 (6),
 - (vi) le certificat définitif prévu au paragraphe 24 (7),
 - (vii) le bref de saisie prévu au paragraphe 24 (9),
 - (viii) le reçu prévu au paragraphe 24 (11) pour un article restitué par l'intimé au requérant conformément à un certificat initial ou définitif,
 - (ix) le reçu prévu au paragraphe 24 (11) pour un article saisi par un shérif ou un huissier en vertu d'un bref de saisie,
 - (x) la renonciation à toute demande ultérieure prévue au paragraphe 24 (11);
- b) prescrire les types de cautionnements qui peuvent être déposés au tribunal en vertu de l'article 24 et prescrire un formulaire pour chaque type de cautionnement, les renseignements devant figurer dans chaque formulaire, la façon d'inscrire les renseignements, notamment les noms, et les personnes devant signer chaque formulaire.

37 Les paragraphes 268 (2) et (3) de l'annexe E de la *Loi de 1998 visant à réduire les formalités administratives* sont abrogés.**LOI FAVORISANT UN ONTARIO SANS FUMÉE****38 La version française de la disposition 7 du paragraphe 9 (2) de la *Loi favorisant un Ontario sans fumée* est abrogée et remplacée par ce qui suit :**

7. Les lieux ou endroits prescrits.

39 La version française du paragraphe 14 (16) de la Loi est modifiée par remplacement de «ou de fournir à l'inspecteur» par «ou fournir à l'inspecteur».**40 Le tableau de l'article 15 de la Loi est modifié par :**

- a) adjonction d'une colonne numérotée intitulée «Point» à la gauche de la colonne 1;
- b) adjonction de «sans objet» dans chaque case vide.

ENTRÉE EN VIGUEUR**Entrée en vigueur****41 (1) Sous réserve des paragraphes (2) et (3), la présente annexe entre en vigueur le jour où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.****(2) L'article 34 entre en vigueur le dernier en date du jour de l'entrée en vigueur de l'article 5 de l'annexe 52 de la *Loi de 2012 sur une action énergique pour l'Ontario (mesures budgétaires)* et du jour où la *Loi de 2017 visant à réduire les formalités administratives inutiles* reçoit la sanction royale.****(3) Les articles 1 à 6, 8 et 9, 13 à 15 et 21 à 25 entrent en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.**

NOTE EXPLICATIVE

*La note explicative, rédigée à titre de service aux lecteurs du projet de loi 154, ne fait pas partie de la loi.
Le projet de loi 154 a été édicté et constitue maintenant le chapitre 20 des Lois de l'Ontario de 2017.*

Le projet de loi s'inscrit dans une initiative gouvernementale qui vise à réduire les formalités administratives inutiles.

Le projet de loi modifie ou abroge un certain nombre de lois et en édicte de nouvelles. Par souci de commodité, les modifications, les abrogations et les nouvelles lois se présentent sous forme d'annexes distinctes. Les annexes où figure le nom d'un ministère donne modifient ou abrogent des lois dont l'application relève de ce ministère ou des lois qui ont une incidence sur celui-ci. Les dispositions d'entrée en vigueur des annexes sont énoncées dans chacune d'elles.

ANNEXE 1

MINISTÈRE DE L'AGRICULTURE, DE L'ALIMENTATION ET DES AFFAIRES RURALES

Loi de 1998 sur la protection de l'agriculture et de la production alimentaire

L'annexe modifie la Loi pour prévoir que plus d'un membre de la Commission de protection des pratiques agricoles normales peut être désigné à la vice-présidence de la Commission.

ANNEXE 2

MINISTÈRE DU PROCUREUR GÉNÉRAL

Loi sur la comptabilité des oeuvres de bienfaisance

L'annexe modifie la Loi pour ajouter les articles 10.2 à 10.4, lesquels prévoient la possibilité pour un fiduciaire auquel la Loi s'applique d'affecter ou d'utiliser les biens en fiducie pour réaliser des placements sociaux. L'article 10.2 énonce les caractéristiques d'un placement social et fournit des directives d'interprétation. L'article 10.3 énonce le pouvoir de réaliser des placements sociaux avec des biens en fiducie tout en précisant que le pouvoir peut être restreint ou exclu par les conditions de la fiducie. L'article 10.4 impose des obligations aux fiduciaires qui réalisent des placements sociaux avec des biens en fiducie, notamment l'obligation de déterminer si des conseils doivent être obtenus à propos du placement social et, le cas échéant, l'obligation d'obtenir de tels conseils et d'en tenir compte. Le paragraphe 10.4 (5) prévoit que les obligations prévues à l'article ne peuvent pas être restreintes ou exclues par les conditions de la fiducie.

L'article 10.1 de la Loi est modifié de façon corrélatrice pour tenir compte des nouvelles dispositions relatives aux placements sociaux.

Loi sur les tribunaux judiciaires

L'annexe modifie l'article 47 de la Loi pour préciser que cet article s'applique aux juges provinciaux nommés après qu'ils ont atteint l'âge de 65 ans. Par ailleurs, l'article 87.2 est modifié et l'article 87.3 ajouté pour prévoir une nouvelle procédure que doit suivre le juge et chef de l'administration de la Cour des petites créances en matière de plaintes et de discipline.

Finalement, l'annexe modifie la Loi pour permettre que certaines ordonnances de paiement des dépens prévus au tarif autorisées par l'Accord sur le commerce intérieur, l'Accord de libre-échange canadien et d'autres accords commerciaux nationaux soient assimilées aux ordonnances de la Cour supérieure de justice aux fins d'exécution.

Loi de 2002 sur les ordonnances alimentaires d'exécution réciproque

L'annexe apporte diverses modifications à la Loi. Quelques-unes des plus importantes modifications sont indiquées ci-dessous.

Le concept de «ordinary residence» est remplacé par celui de «habitual residence» dans la version anglaise de la Loi. La définition de «ordonnance alimentaire» est élargie pour inclure, dans des circonstances particulières, le calcul ou le recalcul par un organisme administratif du versement des aliments destinés à un enfant. Une ordonnance alimentaire et une ordonnance modifiant une ordonnance alimentaire doivent désormais préciser les règles de droit appliquées pour rendre l'ordonnance ou l'ordonnance est réputée avoir été rendue en vertu des règles de droit de l'Ontario.

Afin de déterminer si un enfant a le droit de recevoir des aliments en application de l'article 13 et de déterminer si un enfant a le droit de recevoir ou de continuer de recevoir des aliments en application de l'article 35, le tribunal de l'Ontario applique désormais en premier lieu les règles de droit de l'Ontario. Toutefois, si l'enfant n'a pas le droit de recevoir des aliments en vertu des règles de droit de l'Ontario, le tribunal applique les règles de droit de l'autorité dans le ressort de laquelle l'enfant réside habituellement. Afin de déterminer le montant des aliments qui doit être versé au profit d'un enfant en application de l'article 35, le tribunal de l'Ontario applique désormais les règles de droit de l'Ontario, plutôt que celles de l'autorité dans le ressort de laquelle réside la personne tenue de verser les aliments.

Les règles relatives à la modification d'une ordonnance alimentaire prévues à l'article 39 de la Loi s'appliquent désormais à toutes les ordonnances alimentaires rendues ou enregistrées en Ontario en vertu de la Loi, plutôt qu'uniquement à celles enregistrées en Ontario en vertu de la partie III.

Loi de 2002 sur les garanties internationales portant sur des matériels d'équipement mobiles (équipements aéronautiques)

L'annexe modifie la version française de l'annexe 1 de la Loi afin d'actualiser le libellé de la *Convention relative aux garanties internationales portant sur des matériels d'équipement mobiles* pour adhérer à la version française officielle de la Convention. L'annexe modifie également la version française du titre de l'annexe figurant à l'annexe 2 de la Loi pour indiquer qu'il s'agit de l'annexe visée à l'article XIII du *Protocole portant sur les questions spécifiques aux matériels d'équipement aéronautiques à la Convention relative aux garanties internationales portant sur des matériels d'équipement mobiles*.

Loi sur les jurys

L'annexe modifie la Loi pour tenir compte du fait que l'avis de sélection de jury et le rapport de l'avis de sélection de juré ont été fusionnés en une seule formule de questionnaire pour la sélection d'un jury qui reçoivent des jurés éventuels et qui doit être renvoyée, dûment remplie, à un shérif. Le paragraphe 6 (5) de la Loi est réédité pour permettre que soit renvoyé au shérif le questionnaire rempli pour la sélection d'un jury par un moyen électronique précisé dans le questionnaire, le cas échéant, ainsi que pour proroger de cinq à 30 jours le délai dans lequel le questionnaire doit être renvoyé.

En outre, l'article 19 de la Loi est modifié pour permettre à un shérif de fournir une assignation à un juré sous forme électronique, si le juré y consent. L'article 27 de la Loi est modifié pour remplacer une représentation graphique de la carte requise par une description textuelle des exigences.

Enfin, des modifications d'ordre administratif sont apportées à la Loi :

1. La traduction en français de «correctional institution» à la disposition 6 du paragraphe 3 (1) de la Loi est actualisée.
2. La mention de courrier «de première classe» au paragraphe 6 (1) de la Loi est supprimée.

Loi sur les juges de paix

L'annexe modifie l'article 6 de la Loi pour préciser que cet article s'applique aux juges de paix nommés après qu'ils ont atteint l'âge de 65 ans. Par ailleurs, l'article 13.1 de la Loi est modifié pour permettre au juge en chef de la Cour de justice de l'Ontario de déléguer ses pouvoirs en vertu de cet article.

Loi sur les notaires

L'annexe modifie la Loi pour supprimer l'obligation pour un notaire d'être citoyen canadien.

Loi sur les infractions provinciales

L'annexe modifie la Loi pour permettre au juge en chef de la Cour de justice de l'Ontario de déléguer son pouvoir de décider qu'un juge qui préside un procès est dans l'impossibilité de continuer à siéger.

ANNEXE 3

ABROGATION DE LA LOI SUR LES EMPLOYEURS ET EMPLOYÉS

Loi sur les employeurs et employés

L'annexe abroge la Loi et apporte des modifications corrélatives à deux autres lois pour tenir compte de cette abrogation.

ANNEXE 4

LOI DE 2017 RÉDUISANT LES FRAIS LIÉS À LA RÉGLEMENTATION POUR LES ENTREPRISES

Loi de 2017 réduisant les frais liés à la réglementation pour les entreprises

L'annexe édicte une nouvelle loi qui prévoit diverses mesures visant à réduire les frais liés à la réglementation pour les entreprises.

Lorsqu'un règlement régi par la Loi est pris ou approuvé et a pour effet d'engendrer des frais administratifs pour les entreprises ou d'entraîner leur augmentation, il doit y avoir compensation dans le délai prescrit.

Lorsqu'un règlement régi par la Loi est pris ou approuvé, une étude visant à évaluer les répercussions possibles des propositions doit être menée et ensuite publiée. De plus, des exigences réglementaires moins astreignantes à l'endroit des petites entreprises doivent être mises en place, s'il y a lieu.

Au moment de mettre au point ou de modifier des règlements, des normes reconnues doivent être adoptées, s'il y a lieu.

Les entreprises qui sont tenues de fournir des documents à un ministère par suite d'un règlement auront le choix de les transmettre par voie électronique.

Le gouvernement doit reconnaître les entreprises qui excellent en matière de conformité aux exigences réglementaires.

ANNEXE 5

MINISTÈRE DE L'ENVIRONNEMENT ET DE L'ACTION EN MATIÈRE DE CHANGEMENT CLIMATIQUE

Loi sur la protection de l'environnement

L'annexe remplace les définitions de «ministre» et de «ministère» dans la Loi.

Loi sur les pesticides

L'annexe apporte diverses modifications à la Loi, dont quelques-unes des plus importantes sont indiquées ci-dessous.

L'annexe remplace les définitions de «ministre» et de «ministère» dans la Loi et ajoute une définition de «fonctionnaire». Par ailleurs, l'annexe abroge, d'une part, la limite de six mois relative à la durée pendant laquelle une personne peut travailler comme aide du titulaire d'une licence permettant de procéder à des destructions de parasites dans une structure et, d'autre part, la limite de sept jours relative à la durée pendant laquelle une personne peut travailler comme aide du titulaire d'une licence permettant de procéder à des destructions de parasites terrestres ou à des destructions de parasites aquatiques.

L'annexe modifie les conditions qui doivent être remplies pour que le directeur puisse refuser de délivrer ou de renouveler une licence en vertu de l'article 11 de la Loi. L'annexe élargit la liste des motifs énoncés au paragraphe 11 (3) de la Loi que le directeur peut invoquer pour refuser de délivrer un permis ou l'annuler, pour l'assortir de conditions ou pour en modifier les conditions. L'exigence d'avis énoncée au paragraphe 13 (8) de la Loi s'applique désormais aussi lorsque le directeur délivre un permis sous réserve d'une condition.

Lorsque le directeur refuse de délivrer un permis ou l'annule, ou ajoute une condition à un permis qui a été délivré ou en modifie une, le titulaire du permis a désormais sept jours au lieu de quinze pour présenter des observations aux fins de réexamen. Par ailleurs, le directeur a désormais sept jours au lieu de trois pour réexaminer sa décision après avoir reçu les observations.

Enfin, lorsqu'il désigne un fonctionnaire en vertu de l'article 17 de la Loi, le ministre peut désormais limiter les pouvoirs de celui-ci de la façon qu'il juge nécessaire ou opportune.

ANNEXE 6

MINISTÈRE DES SERVICES GOUVERNEMENTAUX ET DES SERVICES AUX CONSOMMATEURS – MODIFICATIONS VISANT LES COMPAGNIES

Modifications similaires apportées à diverses lois visant les compagnies

L'annexe apporte des modifications de nature administrative aux lois suivantes afin d'en uniformiser la terminologie : la *Loi sur les sociétés par actions*, la *Loi sur les noms commerciaux*, la *Loi sur les renseignements exigés des personnes morales*, la *Loi sur les personnes morales extraprovinciales* et la *Loi sur les sociétés en commandite*.

Au lieu de nommer un ministre en particulier, la définition de «ministre» désigne celui auquel la *Loi sur le Conseil exécutif* attribue la responsabilité de l'application de la Loi.

L'annexe modifie chaque Loi de façon à rendre possible le dépôt, la conservation et la recherche de documents sous forme électronique. Dans la *Loi sur les sociétés par actions*, la *Loi sur les renseignements exigés des personnes morales* et la *Loi sur les personnes morales extraprovinciales*, ces pouvoirs sont conférés au directeur. Dans la *Loi sur les noms commerciaux* et la *Loi sur les sociétés en commandite*, ils le sont au registraire. Parmi les changements apportés :

1. Quiconque peut effectuer des recherches, par tout moyen approuvé par le directeur ou le registraire, dans les dossiers tenus par le ministère et obtenir des copies des documents figurant dans les dossiers.
2. Le directeur ou le registraire, selon le cas, peut préciser des moyens de passer des documents autrement qu'en les signant.
3. En cas d'incompatibilité, la version électronique d'un document figurant dans les dossiers tenus par le ministère l'emporte sur toute autre version du document.
4. Sauf en cas d'exceptions précisées, le directeur ou le registraire, selon le cas, peut accepter une copie d'un avis ou d'un autre document devant lui être envoyé, y compris une copie électronique.
5. La définition de «moyen de communication téléphonique ou électronique» permet de couvrir de nouvelles technologies de communication sans avoir à les autoriser par règlement.

Le directeur ou le registraire se voit conférer de nouveaux pouvoirs, dont les suivants :

1. Celui d'établir des exigences à l'égard de la teneur, de la forme et du dépôt des divers documents qui doivent être redigés ou déposés en application de la Loi, y compris les ordonnances du tribunal, ainsi qu'à l'égard de la forme et du paiement des droits.
2. Celui d'établir des exigences à l'égard de la signature de documents ou de leur passation par un autre moyen.
3. Celui de décider si les documents peuvent ou non être déposés par télécopie.
4. Celui d'attribuer des numéros de société ou de personne morale. Dans le cas de la *Loi sur les sociétés en commandite*, cette attribution se fait sous le régime de la *Loi sur les noms commerciaux*.
5. Celui de délivrer des documents par tout moyen.

6. Celui d'utiliser ou de délivrer des codes de validation ou d'autres systèmes ou méthodes de validation à l'égard des documents délivrés. Dans le cas de la *Loi sur les sociétés en commandite*, ceci se fait sous le régime de la *Loi sur les noms commerciaux*.
7. Celui de mettre à la disposition du public les avis ou les autres documents que le directeur ou le registrateur, selon le cas, envoie en application de la Loi.
8. Celui de mettre à la disposition du public, sauf en cas d'exceptions précisées, les documents dont la Loi, un de ses règlements ou le directeur ou le registrateur, selon le cas, exigent l'envoi au directeur ou au registrateur.
9. Celui d'exiger l'utilisation de formulaires que le directeur ou le registrateur, selon le cas, approuve.
10. Des pouvoirs à exercer si, pour une raison quelconque, il est impossible de recevoir des dépôts dans un système électronique ou de délivrer des documents.

L'annexe élargit les pouvoirs réglementaires du ministre, notamment en ce qui a trait à la prise de règlements concernant la teneur, la forme et le dépôt de divers documents.

Le ministre ou une personne qu'il désigne se voit conférer le pouvoir de conclure des accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du directeur ou du registrateur, selon le cas, ou d'un autre représentant du gouvernement.

Le ministre peut prescrire, par règlement, les documents et renseignements additionnels qui doivent accompagner les divers documents dont la Loi exige le dépôt. Le règlement peut préciser si ces documents et renseignements doivent être déposés auprès du directeur ou du registrateur, selon le cas, ou être conservés et déposés auprès de lui, ou encore remis à une autre personne précisée, à une date ultérieure sur avis du directeur ou du registrateur. Le règlement peut autoriser le directeur ou le registrateur, selon le cas, à exiger des obligations de dépôt différentes pour n'importe lequel des documents et renseignements d'appui prescrits ou pour les documents dont la Loi exige le dépôt.

Loi sur les sociétés par actions

L'annexe apporte d'autres modifications à la Loi, outre celles indiquées ci-dessus qui s'appliquent aux cinq lois portant sur les compagnies.

La nomination du directeur, prévue dans la Loi, est maintenant obligatoire, plutôt que simplement autorisée. Le directeur peut désormais déléguer ses pouvoirs à quiconque, sous réserve des restrictions énoncées dans l'acte de délégation.

La définition du terme «produire» englobe maintenant les procédés électroniques. Le directeur peut délivrer des documents rectifiés.

Les nouveaux paragraphes 5 (2.2) et 119 (12) autorisent le directeur à exiger que soit déposée auprès de lui une copie du consentement de certains administrateurs.

L'article 180 traite actuellement du maintien, sous le régime de la Loi, de personnes morales constituées en vertu des lois d'une autre autorité législative. L'annexe modifie l'article 180 pour traiter également du maintien, sous le régime de la *Loi sur les sociétés par actions*, de compagnies à caractère social, au sens de la *Loi sur les personnes morales*, qui ont été constituées en vertu de cette loi, comme le prévoit le nouvel article 2.1 de cette loi.

Le nouvel article 181.2 traite de la prorogation, sous le régime de la *Loi de 2010 sur les organisations sans but lucratif*, de sociétés régies par la Loi, comme le prévoit l'article 115 de la *Loi de 2010 sur les organisations sans but lucratif*. L'annexe modifie l'article 185 de la Loi pour élargir les droits des actionnaires dissidents lorsqu'une société régie par la Loi demande, en vertu du nouvel article 181.2, sa prorogation sous le régime de la *Loi de 2010 sur les organisations sans but lucratif* ou, en vertu de l'article 181.1, son maintien sous le régime de la *Loi sur les sociétés coopératives*.

L'annexe modifie le paragraphe 99 (2) pour exiger qu'une société qui reçoit un avis de proposition d'un actionnaire fasse figurer la proposition dans la circulaire d'information de la direction ou, si la société ne fournit pas de circulaire d'information de la direction, dans l'avis de l'assemblée des actionnaires à laquelle la proposition fera l'objet de discussions.

Les nouveaux alinéas 99 (5) a) et a.1) prévoient qu'une société est soustraite à l'obligation d'envoyer une proposition aux actionnaires de la manière exigée au paragraphe 99 (2) avant l'assemblée au cours de laquelle la proposition fera l'objet de discussions, si l'avis de proposition est déposé auprès de la société moins d'un nombre minimal de jours fixe avant l'assemblée ou avant l'expiration d'un délai d'un an à compter de la dernière assemblée annuelle. Pour les sociétés faisant appel au public, le nombre minimal de jours est de 60. Pour les sociétés ne faisant pas appel au public, le nombre minimal de jours est fixé en application du nouveau paragraphe 99 (5.1).

En application du nouveau paragraphe 99 (5.2), si une société ne faisant pas appel au public reçoit l'avis d'une proposition qui sera soulevée à une assemblée des actionnaires et n'est pas soustraite à l'obligation d'envoyer la proposition aux actionnaires de la manière exigée au paragraphe 99 (2), mais que l'avis de proposition est reçu après que la société a déjà envoyé un avis de l'assemblée des actionnaires, la société doit envoyer la proposition aux personnes qui ont le droit de recevoir l'avis de l'assemblée au moins 10 jours avant celle-ci. La société qui se conforme au paragraphe 99 (5.2) est réputée, aux termes du paragraphe 99 (5.3), s'être conformée au paragraphe 99 (2).

L'alinéa 99 (5) d) actuel de la Loi soustrait une société à l'obligation d'envoyer une proposition aux actionnaires de la manière exigée au paragraphe 99 (2) avant l'assemblée au cours de laquelle la proposition fera l'objet de discussions, si une proposition à peu près identique a été rejetée à une assemblée des actionnaires qui a eu lieu dans les deux ans précédant la réception de la nouvelle proposition de l'actionnaire. L'annexe modifie cet alinéa de sorte qu'il s'applique si une proposition à peu près identique a fait l'objet de discussions à une assemblée des actionnaires qui a eu lieu dans les cinq ans précédant la réception de la nouvelle proposition et que celle-ci n'a pas reçu l'appui minimum requis en application du paragraphe 99 (5.4). Le nouveau paragraphe 99 (5.4) prévoit que l'appui minimum que la proposition doit avoir reçu à l'assemblée précédente est de 3 %, 6 %, ou 10 % du nombre total des voix liées aux actions avec droit de vote exprimées à cette assemblée, selon que cette assemblée marquait la première, la deuxième ou la troisième fois qu'une proposition à peu près identique a été soumise à une assemblée des actionnaires au cours de la période de cinq ans.

L'annexe apporte des modifications corrélatives à d'autres parties de l'article 99.

Loi sur les noms commerciaux

L'annexe apporte d'autres modifications à la Loi, outre celles indiquées ci-dessus qui s'appliquent aux cinq lois portant sur les compagnies.

Le registraire nommé en application de la Loi a le pouvoir d'agir à la fois en vertu de la Loi et de la *Loi sur les sociétés en commandite*. Le registraire peut déléguer à quiconque les pouvoirs que lui attribue la Loi ou la *Loi sur les sociétés en commandite*, sous réserve des restrictions énoncées dans l'acte de délégation.

Loi de 1994 portant réforme de la réglementation des entreprises

L'annexe prévoit qu'un ministre peut exiger qu'une entreprise qui a des interactions avec lui, lui fournisse les renseignements commerciaux qui la concernent, notamment son nom et ses coordonnées, si un accord interministériel a été conclu relativement à ce type d'interactions. Ces renseignements sont centralisés au sein du gouvernement provincial et peuvent être communiqués au gouvernement fédéral.

De plus, l'annexe apporte des modifications de forme et des modifications connexes.

Loi sur les renseignements exigés des personnes morales

L'annexe apporte d'autres modifications à la Loi, outre celles indiquées ci-dessus qui s'appliquent aux cinq lois portant sur les compagnies.

Les modifications apportées à la Loi confèrent divers pouvoirs administratifs, dans le cadre de la Loi, au directeur nommé en vertu de la *Loi sur les sociétés par actions*. Le ministre et le directeur peuvent déléguer à quiconque les fonctions et pouvoirs que leur attribue la Loi, sous réserve des restrictions énoncées dans l'acte de délégation.

Le nouvel article 8.1 autorise le ministre à consigner les renseignements prescrits dans les dossiers tenus par le ministère comme si une personne morale avait déposé un rapport ou un avis exigé par la Loi, s'il reçoit ces renseignements ou une partie d'entre eux d'une autorité législative prescrite.

Loi sur les personnes morales extraprovinciales

L'annexe apporte d'autres modifications à la Loi, outre celles indiquées ci-dessus qui s'appliquent aux cinq lois portant sur les compagnies.

Le directeur peut déléguer à quiconque les pouvoirs que lui attribue la Loi, sous réserve des restrictions énoncées dans l'acte de délégation.

La définition du terme «produire» englobe maintenant les procédés électroniques. Le directeur peut délivrer des documents rectifiés et y préciser la date.

Loi sur les sociétés en commandite

L'annexe apporte d'autres modifications à la Loi, outre celles indiquées ci-dessus qui s'appliquent aux cinq lois portant sur les compagnies.

L'annexe réécrit l'article 19 pour prévoir les circonstances dans lesquelles une déclaration de changement visant des renseignements n'a pas besoin d'être déposée si le changement a déjà été déposé en application d'une autre loi.

Le nouvel article 6.1 donne au registraire le pouvoir de refuser d'accepter le dépôt de la raison sociale d'une société en commandite qui n'est pas conforme à la présente loi ou aux exigences prescrites.

ANNEXE 7

MINISTÈRE DES SERVICES GOUVERNEMENTAUX ET DES SERVICES AUX CONSOMMATEURS LOI SUR LES PERSONNES MORALES ET MODIFICATIONS CONNEXES

Loi sur les personnes morales

L'annexe modifie la Loi afin de conférer divers pouvoirs administratifs, dans le cadre de la Loi, au directeur nommé en vertu de la *Loi sur les sociétés par actions* et transfère un certain nombre de pouvoirs du lieutenant-gouverneur au ministre. Le

ministre et le directeur peuvent désormais déléguer à quiconque les fonctions et pouvoirs que leur attribue la Loi, sous réserve des restrictions énoncées dans l'acte de délégation.

L'annexe modifie la Loi par les moyens suivants de façon à rendre possible le dépôt, la conservation et la recherche de documents sous forme électronique :

1. Prévoir la possibilité d'effectuer des recherches, par tout moyen approuvé par le directeur, dans les dossiers tenus par le ministère et d'obtenir des copies des documents figurant dans les dossiers.
2. Permettre au directeur de préciser des moyens de passer des documents autrement qu'en les signant.
3. Permettre au directeur de délivrer des documents rectifiés.
4. Prévoir qu'en cas d'incompatibilité, la version électronique d'un document figurant dans les dossiers tenus par le ministère l'emporte sur toute autre version du document.
5. Prévoir que, sauf en cas d'exceptions précisées, le ministre peut accepter une copie d'un avis ou d'un autre document devant lui être envoyé, y compris une copie électronique.

La définition de «moyen de communication téléphonique ou électronique» permet de couvrir de nouvelles technologies de communication sans avoir à les autoriser par règlement.

Le directeur se voit conférer les pouvoirs suivants :

1. Celui d'établir des exigences à l'égard de la teneur, de la forme et du dépôt des divers documents qui doivent être rédigés ou déposés en application de la présente loi, y compris les ordonnances du tribunal, ainsi qu'à l'égard de la forme et de l'acquittement des droits.
2. Celui d'établir des exigences à l'égard de la signature de documents ou de leur passation par un autre moyen.
3. Celui de décider si les documents peuvent ou non être déposés par télécopie.
4. Celui d'attribuer des numéros de personne morale.
5. Celui de délivrer des documents par tout moyen.
6. Celui d'utiliser ou de délivrer des codes de validation ou d'autres systèmes ou méthodes de validation à l'égard des documents délivrés.
7. Celui d'exiger l'utilisation de formulaires qu'il approuve.
8. Des pouvoirs à exercer si, pour une raison quelconque, il est impossible de recevoir des dépôts dans un système électronique ou de délivrer des documents.

L'annexe élargit les pouvoirs réglementaires du ministre, notamment en ce qui a trait à la prise de règlements concernant la teneur, la forme et le dépôt de divers documents. Le ministre peut prescrire, par règlement, les documents et renseignements additionnels qui doivent accompagner les divers documents dont la Loi exige le dépôt. Le règlement peut préciser si ces documents et renseignements doivent être déposés auprès du ministre ou être conservés et déposés auprès du ministre, ou encore remis à une autre personne précisée, à une date ultérieure sur avis du directeur. Le règlement peut autoriser le directeur à exiger des obligations de dépôt différentes pour n'importe lequel des documents et renseignements d'appui prescrits ou pour les documents dont la Loi exige le dépôt.

Le nouvel article 2.3 donne au ministre ou à une personne qu'il désigne le pouvoir de conclure des accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du directeur ou d'un autre représentant du gouvernement. L'article 8, qui à l'heure actuelle autorise le ministre ou toute personne de son ministère à recevoir une déposition sous serment, est réédité afin d'autoriser le ministre, le directeur, un fonctionnaire ou une personne ayant conclu un accord en vertu du nouvel article 2.3 à le faire.

Les modifications à la Loi qui ont été apportées dans la partie XVI de la *Loi de 2010 sur les organisations sans but lucratif* sont déplacées de cette Loi à la présente annexe, sous réserve des modifications qui suivent.

Les compagnies à caractère social sont définies comme des compagnies dont les objets sont entièrement ou partiellement de nature sociale. L'article 2 prévoit que la Loi s'applique aux compagnies à caractère social qui ont été constituées par une loi générale ou spéciale ou en vertu d'une telle loi et aux personnes morales qui sont des assureurs. Il prévoit également que la Loi ne s'applique pas aux personnes morales auxquelles s'applique la *Loi sur les sociétés par actions*, la *Loi sur les sociétés coopératives* ou la *Loi de 2010 sur les organisations sans but lucratif* ni aux personnes morales constituées pour la construction et l'exploitation de chemins de fer, de funiculaires ou de tramways.

Au 25^e anniversaire de l'entrée en vigueur du nouvel article 2, celui-ci est modifié de sorte que la Loi ne s'applique plus aux compagnies à caractère social qui ont été constituées par une loi générale ou en vertu d'une telle loi. Il continue de s'appliquer aux compagnies à caractère social qui ont été constituées par une loi spéciale ou en vertu d'une telle loi.

L'article 2.1 est réédité pour préciser que si une compagnie à caractère social compte plus d'une catégorie d'actionnaires, la résolution spéciale qu'elle adopte pour autoriser son maintien sous le régime de la *Loi sur les sociétés par actions*, de la *Loi*

sur les sociétés coopératives ou de la Loi de 2010 sur les organisations sans but lucratif doit être approuvée par chaque catégorie d'actionnaires par un vote distinct.

L'annexe apporte d'autres modifications qui découlent de la Loi de 2010 sur les organisations sans but lucratif ou qui cadrent avec elle :

- 1 Les articles 117 et 118 prévoient que les compagnies ou les personnes morales ne peuvent être constituées en vertu de la partie II ou III de la Loi, respectivement, que si la partie V de la Loi (Sociétés d'assurance) s'y appliquerait.
- 2 L'alinéa 34 (1) q), qui permet à une compagnie de présenter une requête pour obtenir la délivrance de lettres patentes supplémentaires en vue de la convertir en personne morale avec ou sans capital-actions, est abrogé.
- 3 Le paragraphe 34 (10) prévoit que seuls les assureurs peuvent présenter des requêtes pour obtenir la délivrance de lettres patentes supplémentaires en vue de convertir une compagnie en compagnie ouverte, en compagnie fermée ou en personne morale sans capital-actions.
- 4 Le paragraphe 317 (1) prévoit que le ministre peut annuler, pour des motifs suffisants, certains arrêtés et autres documents.

L'annexe modifie les articles 93, 161 et 296 de la Loi sur les personnes morales pour exiger que les avis des assemblées des membres ou des actionnaires soient donnés «par écrit». Ceci entraîne l'application de la Loi de 2000 sur le commerce électronique, qui permet qu'un avis soit donné par un moyen électronique s'il est satisfait à certaines conditions précisées dans cette loi.

Pour ce qui est des organisations sans but lucratif, les modifications suivantes s'appliquent provisoirement, d'ici l'entrée en vigueur de la Loi de 2010 sur les organisations sans but lucratif, aux personnes morales auxquelles s'applique la partie III de la Loi mais non la partie V :

- 1 Le nouvel article 117.1 traite de l'incompatibilité entre des dispositions de la Loi ou de ses règlements et des dispositions d'autres lois ou règlements, de même que de l'incompatibilité entre des dispositions de la Loi ou de ses règlements et des principes de common law ou d'equity se rapportant aux organismes de bienfaisance. Il traite également des dispositions de la Loi ou de ses règlements qui sont incompatibles avec l'objet d'autres lois ou règlements.
- 2 En vertu du nouvel article 125.1, les assemblées des membres peuvent se tenir par un moyen de communication téléphonique ou électronique, sauf disposition contraire des règlements administratifs de la personne morale.
- 3 Le nouvel article 126.1 confère aux personnes morales la capacité, les droits, les pouvoirs et les privilèges d'une personne physique. L'article prévoit expressément que les actes d'une personne morale sont valides même s'ils sont contraires à son acte constitutif, à ses règlements administratifs ou à la Loi.
- 4 Le nouvel article 126.2 prévoit qu'une personne morale peut vendre, louer ou échanger l'entreprise de la personne morale en totalité ou en partie, si elle y est autorisée par résolution spéciale.
- 5 En vertu du nouvel article 126.3, si une personne conclut un contrat écrit ou oral pour le compte d'une personne morale avant sa constitution, la personne morale peut, par toute mesure ou conduite, ratifier le contrat, auquel cas elle est liée par le contrat et peut en bénéficier comme si elle était partie à celui-ci. La personne qui s'est engagée pour le compte de la personne morale cesse alors d'être liée par le contrat et de pouvoir en bénéficier.
- 6 Le nouvel article 127.1 énonce les devoirs et le degré de diligence des administrateurs et des dirigeants, qui doivent agir avec intégrité et de bonne foi au mieux des intérêts de la personne morale et avec le soin, la diligence et la compétence dont ferait preuve, en pareilles circonstances, une personne d'une prudence raisonnable. L'article prévoit également qu'aucune disposition d'un contrat, de l'acte constitutif, des règlements administratifs ou d'une résolution ne peut libérer les administrateurs ou les dirigeants de l'obligation d'agir conformément à la Loi et aux règlements ni de la responsabilité découlant de leur inobservation.
- 7 Le nouvel article 127.2 permet aux membres de révoquer un administrateur par une majorité des voix exprimées, au lieu des deux tiers comme c'est le cas à l'heure actuelle. Les administrateurs d'office ne peuvent être révoqués. La vacance découlant de la révocation d'un administrateur peut être comblée à l'assemblée des membres qui l'a révoqué. Sinon, la vacance peut être comblée de la même façon qu'une vacance survenue pour un autre motif.
- 8 En vertu du nouvel article 130.1, les membres peuvent, par voie de résolution exceptionnelle, décider de ne pas nommer de vérificateur et de ne pas prévoir de mission de vérification à l'égard d'un exercice de la personne morale si son revenu annuel pour l'exercice ne dépasse pas 100 000 \$ ou l'autre montant prescrit par les règlements.
- 9 En vertu du paragraphe 286 (3), les règlements administratifs d'une personne morale peuvent prévoir qu'une personne peut en être administrateur sans en être actionnaire ou membre.
- 10 L'article 288 de la Loi indique comment les vacances au sein du conseil d'administration doivent être comblées. Le nouveau paragraphe 288 (4) prévoit que si la personne morale n'a pas d'administrateurs ni de membres, le tribunal peut, par ordonnance, nommer le nombre fixe d'administrateurs prévu.

11. Le nouveau paragraphe 313 (1.0.1) interdit à une personne morale de demander que lui soit délivré un acte assurant son maintien comme si elle avait été constituée en vertu des lois d'une autre autorité législative, sauf si ces lois prévoient, entre autres, que la personne morale continue d'être responsable de ses obligations, que le maintien n'a aucun effet sur une cause d'action ou une réclamation existantes ou la possibilité d'être poursuivi, qu'une action intentée ou une instance introduite par la personne morale ou contre elle peut se poursuivre et que les décisions, ordres, ordonnances, décrets, arrêtés ou jugements rendus ou pris en faveur de la personne morale ou contre elle peuvent être exécutés.

Modifications connexes

L'annexe apporte des modifications à neuf lois par suite de celles apportées à la *Loi sur les personnes morales*. En ce qui a trait à certaines personnes morales régies par ces lois, il est nécessaire d'apporter des précisions sur l'application de la *Loi sur les personnes morales* à ces personnes morales ou à leurs pouvoirs.

ANNEXE 8

MINISTÈRE DES SERVICES GOUVERNEMENTAUX ET DES SERVICES AUX CONSOMMATEURS — LOI DE 2010 SUR LES ORGANISATIONS SANS BUT LUCRATIF ET MODIFICATIONS CORRÉLATIVES

Loi de 2010 sur les organisations sans but lucratif

Au lieu de nommer un ministre en particulier, la définition de «ministre» désigne celui auquel la *Loi sur le Conseil exécutif* attribue la responsabilité de l'application de la Loi. La nomination du directeur, prévue dans la Loi, est maintenant obligatoire, plutôt que simplement autorisée. Le directeur peut désormais déléguer ses pouvoirs à quiconque, sous réserve des restrictions énoncées dans l'acte de délégation.

Le directeur se voit conférer les pouvoirs suivants :

1. Celui d'établir des exigences à l'égard de la teneur, de la forme et du dépôt des divers documents qui doivent être rédigés ou déposés en application de la Loi, y compris les ordonnances du tribunal, ainsi qu'à l'égard de la forme et du paiement des droits.
2. Celui d'établir des exigences à l'égard de la signature de documents ou de leur passation par un autre moyen.
3. Celui de décider si les documents peuvent ou non être déposés par télécopie.
4. Celui d'attribuer des numéros d'organisation.
5. Celui de produire et de délivrer des documents par tout moyen.
6. Celui d'utiliser ou de délivrer des codes de validation ou d'autres systèmes ou méthodes de validation à l'égard des documents délivrés.
7. Celui de mettre à la disposition du public, sauf en cas d'exceptions précisées, les avis ou les autres documents que le directeur envoie en application de la Loi, ou les documents dont la Loi, un de ses règlements ou le directeur exigent l'envoi au directeur.
8. Celui d'exiger l'utilisation de formulaires qu'il approuve.
9. Des pouvoirs à exercer si, pour une raison quelconque, il est impossible de recevoir des dépôts dans un système électronique ou de délivrer des documents.

L'annexe élargit les pouvoirs réglementaires du ministre, notamment en ce qui a trait à la prise de règlements concernant la teneur, la forme et le dépôt de divers documents. Le ministre peut prescrire, par règlement, les documents et renseignements additionnels qui doivent accompagner les divers documents dont la Loi exige le dépôt. Le règlement peut préciser si ces documents et renseignements doivent être déposés auprès du directeur ou être conservés et déposés auprès du directeur, ou encore remis à une autre personne précisée, à une date ultérieure sur avis du directeur. Le règlement peut autoriser le directeur à exiger des obligations de dépôt différentes pour n'importe lequel des documents et renseignements d'appui prescrits ou pour les documents dont la Loi exige le dépôt.

Le nouvel article 206.2 donne au ministre ou à une personne qu'il désigne le pouvoir de conclure des accords autorisant une personne ou une entité à fournir des services de dépôt pour les entreprises pour le compte de la Couronne, du gouvernement, du ministre, du directeur ou d'un autre représentant du gouvernement.

L'annexe modifie la Loi par les moyens suivants de façon à rendre possible le dépôt, la conservation et la recherche de documents sous forme électronique :

1. Définir le terme «produire» pour englober les procédés électroniques.
2. Prévoir la possibilité d'effectuer des recherches dans les dossiers tenus par le ministère par tout moyen approuvé par le directeur et d'obtenir des copies ou des extraits des documents figurant dans les dossiers.
3. Permettre au directeur de préciser des moyens de passer des documents autrement qu'en les signant.
4. Permettre au directeur de délivrer des documents rectifiés.

5. Prevoir qu'en cas d'incompatibilité, la version électronique d'un document figurant dans les dossiers tenus par le ministère l'emporte sur toute autre version du document.
6. Prevoir que, sauf en cas d'exceptions précisées, le directeur peut accepter une copie d'un avis ou d'un autre document devant lui être envoyé, y compris une copie électronique.
7. Définir le terme «moyen de communication téléphonique ou électronique» afin de couvrir de nouvelles technologies de communication sans avoir à les autoriser par règlement.

L'annexe modifie l'exigence selon laquelle les documents et les renseignements doivent être déposés auprès du directeur conformément aux règlements, pour exiger qu'ils soient maintenant déposés conformément aux règlements et aux exigences du directeur qui s'appliquent. Elle modifie aussi l'exigence selon laquelle le directeur doit produire une inscription à l'égard des statuts conformément aux règlements, pour exiger qu'il produise maintenant une inscription à l'égard des statuts conformément à un nouvel article de la Loi.

L'annexe réécrit l'article 115 de la Loi, qui traite de la prorogation sous le régime de la Loi de personnes morales régies par d'autres lois ontariennes. Comme c'est déjà le cas dans l'actuel article 115, l'article réécrit prévoit qu'une personne morale constituée ou prorogée sous le régime d'une autre loi peut demander au directeur un certificat de prorogation sous le régime de la Loi et peut, par la même résolution que celle qui autorise les administrateurs de la personne morale à demander la prorogation, apporter à sa charte toute modification qu'une organisation constituée sous le régime de la Loi pourrait apporter à ses statuts, sous réserve de certaines exceptions. L'article réécrit ajoute les règles suivantes, qui s'appliquent aux personnes morales avec capital-actions :

1. La même résolution doit supprimer de la charte les dispositions relatives aux actions autorisées et doit prévoir l'annulation de toutes les actions émises.
2. La résolution doit également être conforme aux exigences applicables de la loi qui régit la personne morale ou, à défaut d'exigences applicables, doit recevoir l'approbation unanime des actionnaires.
3. La personne morale ne peut pas demander sa prorogation sous le régime de la Loi dans le cas où, une fois prorogée, la personne morale ne sera pas en mesure d'acquitter son passif à échéance.

Enfin, le nouveau paragraphe 115 (10) protège certains droits des personnes morales, avec ou sans capital-actions, une fois qu'elles sont prorogées sous le régime de la Loi. Cette disposition correspond au paragraphe 114 (8) de la Loi, qui traite de la prorogation de personnes morales constituées en vertu des lois d'autres autorités législatives.

L'annexe modifie l'article 169 de la Loi pour élargir les types de certificats, de lettres patentes, d'actes et d'arrêtés que le directeur peut annuler pour des motifs suffisants.

Elle modifie aussi l'exigence selon laquelle une organisation non caritative doit recevoir plus de 10 000 \$ sous forme de financement déterminé pour remplir les critères de la définition d'organisation d'intérêt public au paragraphe 1 (1) de la Loi, pour exiger que l'organisation reçoive plus de 10 000 \$ ou un autre montant prescrit.

Le nouveau paragraphe 4 (1.1) prévoit que la Loi ne s'applique pas aux personnes morales simples, sauf selon ce qui est prescrit. Le nouvel article 207.1 autorise le lieutenant-gouverneur en conseil à prescrire les dispositions de la Loi et des règlements qui doivent s'appliquer aux personnes morales simples et à prescrire des adaptations, s'il y a lieu. Le paragraphe 4 (2) est réécrit pour prévoir que la Loi ne s'applique pas aux personnes morales constituées pour la construction et l'exploitation de chemins de fer, de funiculaires ou de tramways.

L'annexe modifie le paragraphe 24 (8) de la Loi pour exiger que le consentement des particuliers à occuper un poste d'administrateur d'une organisation soit donné par écrit.

À l'heure actuelle, l'article 105 et les paragraphes 111 (3) et (4), 116 (3) et 118 (4) et (5), qui ne sont pas encore en vigueur, prévoient que les membres d'une organisation peuvent voter sur un certain nombre de questions (modifications des droits afférents à une catégorie ou à un groupe de membres, fusion, prorogation sous le régime des lois d'une autre autorité législative, ou vente, location ou échange de la totalité ou de la quasi-totalité des biens de l'organisation), que leur adhésion soit assortie ou non du droit de vote. Dans certains cas, ces dispositions prévoient aussi le droit de voter séparément en tant que catégorie ou groupe. L'annexe fait entrer ces dispositions en vigueur le jour fixe par proclamation, lequel ne peut être antérieur au troisième anniversaire du jour de l'entrée en vigueur du paragraphe 4 (1) de la Loi.

L'annexe réécrit l'article 207 de la Loi, qui régit les questions transitoires.

Modifications corrélatives

L'annexe apporte aussi à plus de 80 lois des modifications corrélatives découlant de la *Loi de 2010 sur les organisations sans but lucratif*.

La plupart des lois modifiées par l'annexe contiennent à l'heure actuelle des dispositions qui prévoient que la *Loi sur les personnes morales* ou la partie III de cette loi ne s'applique pas à une personne morale en particulier, ou ne s'applique pas à la personne morale sauf selon ce qui est prescrit par règlement. Ces dispositions sont modifiées, ou de nouvelles dispositions ajoutées, pour prévoir que la *Loi de 2010 sur les organisations sans but lucratif* ne s'applique pas, ou ne s'applique pas sauf selon ce qui est prescrit par règlement.

Il y a également certaines modifications qui ne se rapportent pas à l'application de la *Loi de 2010 sur les organisations sans but lucratif* à une personne morale, mais qui, pour d'autres raisons, remplacent les mentions de la *Loi sur les personnes morales* par des mentions de la *Loi de 2010 sur les organisations sans but lucratif* ou ajoutent cette dernière à une liste de lois qui comprend la *Loi sur les personnes morales*. Voir, par exemple, les modifications apportées à la *Loi sur les sociétés coopératives*, à la *Loi de 1999 sur la ville du Grand Sudbury*, à la *Loi de 1999 sur la cité de Hamilton*, à la *Loi de 1999 sur la ville d'Ottawa* et à la *Loi de 1999 sur la ville de Haldimand*.

ANNEXE 9

MINISTÈRE DES SERVICES GOUVERNEMENTAUX ET DES SERVICES AUX CONSOMMATEURS — LOIS TRAITANT DES ENREGISTREMENTS ET AUTRES LOIS

Loi Arthur Wishart de 2000 sur la divulgation relative aux franchises

L'annexe supprime de la Loi toutes les mentions de «marque de service». Elle modifie la définition de «franchise» de façon à inclure les situations où le franchiseur ou la personne qui a un lien avec lui a le droit d'exercer un contrôle important sur le mode d'exploitation du franchiseur ou de lui apporter une aide importante à cet égard.

L'annexe modifie l'article 5 de la Loi de sorte que l'obligation de fournir à un franchiseur éventuel un document d'information ou une déclaration qui fait état d'un changement important ne s'applique pas à certaines ententes précisées qui ne concèdent pas la franchise, sous réserve d'exceptions précisées. Elle élargit également la portée de l'exemption prévue à l'alinéa 5 (7) b) de la Loi pour inclure, dans certaines circonstances, la concession d'une franchise à une personne qui n'est pas actuellement un dirigeant ou un administrateur du franchiseur ou de la personne qui a un lien avec lui.

Loi de 1998 sur les condominiums

L'annexe apporte une modification d'ordre administratif à la Loi pour des raisons d'uniformité.

Loi portant réforme de l'enregistrement immobilier

À l'heure actuelle, l'article 21 de la Loi prévoit que certains documents électroniques n'ont pas à être signés par les parties pour être enregistrés ou déposés. L'annexe élargit la portée de cette disposition pour qu'elle s'applique à tous les documents électroniques.

Loi sur l'enregistrement des droits immobiliers

L'annexe modifie l'article 67 de la Loi qui porte sur la désignation d'un propriétaire enregistré pour tenir compte des modifications apportées en 2016 à la *Loi sur les statistiques de l'état civil* et à la *Loi sur le changement de nom* qui permettent à une personne d'avoir un nom unique.

Loi sur les sûretés mobilières

L'annexe modifie les dispositions portant sur le conflit des lois aux articles 7, 7.1, 7.2 et 7.3 de la Loi afin de remplacer les mentions d'un débiteur qui s'installe dans un autre ressort par des mentions d'un changement du ressort où le débiteur est considéré se trouver, selon ce qui est établi conformément aux règles énoncées dans la Loi. Le but de ces modifications est de préciser que le ressort où le débiteur est considéré se trouver peut changer, non pas par suite d'un déplacement physique du débiteur, mais par suite de l'application des nouvelles règles sur «le lieu où se trouve le débiteur» énoncées aux paragraphes 7 (3), (4) et (5) de la Loi, tels qu'ils sont édictés par le paragraphe 3 (2) de l'annexe E de la *Loi de 2006 du ministère des Services gouvernementaux sur la modernisation des services et de la protection du consommateur*, lequel est entré en vigueur le 31 décembre 2015.

L'annexe modifie également les règles transitoires aux paragraphes 7.2 (7) et 7.3 (6) de la Loi pour préciser qu'elles s'appliquent si le ressort où le débiteur se trouvait le 31 décembre 2015 diffère de celui où il se trouvait immédiatement avant ce jour, et ce uniquement par suite de l'application des nouvelles règles sur «le lieu où se trouve le débiteur» énoncées aux paragraphes 7 (3), (4) et (5), dans leur version en vigueur ce jour-là, et non par suite d'un changement dans un facteur permettant d'établir le lieu où se trouve le débiteur en application de la Loi.

Le nouvel article 46.1 de la Loi prévoit que, pour l'application du paragraphe 46 (4) de la Loi, dans la mesure où est visée une sûreté sur un véhicule automobile, le fait qu'un état de financement ou un état de modification du financement contienne une ou plusieurs erreurs ou omissions précisées est réputé non susceptible d'induire substantiellement en erreur une personne raisonnable dans certaines circonstances précisées.

Le nouvel article 46.2 de la Loi prévoit que, pour l'application du paragraphe 46 (4) de la Loi, dans la mesure où est visée une sûreté sur un véhicule automobile, une ou plusieurs erreurs ou omissions précisées dans un état de financement ou un état de modification du financement sont réputées susceptibles d'induire substantiellement en erreur une personne raisonnable dans certaines circonstances précisées.

Loi sur l'enregistrement des actes

L'annexe modifie le paragraphe 48 (2) de la Loi qui porte sur la désignation du cessionnaire pour tenir compte des modifications apportées en 2016 à la *Loi sur les statistiques de l'état civil* et à la *Loi sur le changement de nom* qui permettent à une personne d'avoir un nom unique.

Loi sur le privilège des réparateurs et des entreposeurs

Le nouveau paragraphe 9 (3) de la *Loi sur le privilège des réparateurs et des entreposeurs* prévoit que, pour l'application du paragraphe 9 (2) de la Loi, dans la mesure où est visé un privilège sur un véhicule automobile, le fait qu'une revendication de privilège ou un état de modification contienne une ou plusieurs erreurs ou omissions précisées est réputé non susceptible d'induire substantiellement en erreur une personne raisonnable dans certaines circonstances précisées.

Le nouveau paragraphe 9 (5) de la Loi prévoit que, pour l'application du paragraphe 9 (2) de la Loi, dans la mesure où est visé un privilège sur un véhicule automobile, une ou plusieurs erreurs ou omissions précisées dans une revendication de privilège ou un état de modification sont réputées susceptibles d'induire substantiellement en erreur une personne raisonnable.

ANNEXE 10**MINISTÈRE DES AFFAIRES MUNICIPALES*****Loi de 1996 sur les élections municipales***

L'annexe modifie la Loi pour prévoir que les comités de vérification de conformité peuvent délibérer en privé.

ANNEXE 11**MODIFICATIONS EN VUE DE L'ACCESSIBILITÉ*****Loi sur les débiteurs en fuite***

L'annexe abroge la formule que comprend la Loi et modifie l'article 16 pour prévoir que le formulaire d'acte de vente mobilière doit être prescrit par règlement pris en vertu de la Loi.

Loi sur la mise en liberté sous caution

L'annexe abroge les formules que comprend la Loi et prévoit que les formulaires pour l'application de la Loi peuvent être prescrits par règlement pris en vertu de celle-ci.

Loi sur les tribunaux judiciaires

L'annexe remplace l'article 1.1 de la Loi afin de séparer les règles actuelles d'interprétation en français et en anglais portant sur les appellations des tribunaux et les titres des fonctionnaires des tribunaux.

Loi sur l'administration des successions

L'annexe abroge les formules que comprend la Loi et modifie l'article 9 pour prévoir que les formulaires pour l'application de cet article peuvent être prescrits par règlement pris en vertu de la Loi.

Loi sur le privilège des travailleurs forestiers portant sur leur salaire

L'annexe abroge les formules 1 et 2 figurant à la fin de la Loi et modifie celle-ci pour exiger que la revendication de privilège et l'affidavit visés aux paragraphes 5 (1) et (2) soient présentés selon le formulaire approuvé par le ministre des Richesses naturelles et des Forêts. L'annexe apporte aussi une modification d'ordre administratif pour corriger la version française du titre abrégé de la Loi.

Loi sur les assignations interprovinciales

L'annexe abroge la formule figurant à l'annexe 2 de la Loi et prévoit que le formulaire de certificat pour l'application des articles 2 et 5 de la Loi peut être prescrit par règlement pris en vertu de la Loi.

Loi sur l'Assemblée législative

L'annexe abroge les formules que comprend la Loi et incorpore leur contenu directement dans les articles 59 et 101 de la Loi.

Loi de 2006 sur l'intégration du système de santé local

L'annexe apporte des modifications à la Loi pour des raisons d'accessibilité. Une modification de forme est également apportée à la version française de la Loi.

Loi sur les hypothèques

L'annexe abroge la formule que comprend la Loi et prévoit que les formulaires pour l'application de la Loi peuvent être prescrits par règlement pris en vertu de celle-ci.

Loi de 2001 sur les municipalités

L'annexe abroge le tableau de l'article 11 et le remplace par une version accessible du tableau.

Loi sur les régies des services publics du Nord

L'annexe abroge les formules 1 et 2 qui se trouvent à la fin de la Loi et incorpore les exigences des formules abrogées aux articles 3 et 20 de la Loi.

Loi sur le privilège des réparateurs et des entreposeurs

L'annexe apporte diverses modifications à la Loi.

Le nouvel alinéa 33 a) autorise le ministre à prendre des règlements précisant les formulaires se rapportant aux éléments énumérés à cet alinéa. L'alinéa 31.1 (1) b), qui dans sa version actuelle autorise le ministre à prendre des arrêtés précisant les formulaires, est modifié de sorte qu'il ne s'applique qu'aux formulaires qui ne sont pas énumérés au nouvel alinéa 33 a). L'alinéa 31.2 (1) a), qui n'est pas encore en vigueur et qui autorisera le registrateur à prendre des ordonnances précisant les formulaires à la place du ministre, est modifié de sorte qu'à son entrée en vigueur, il ne s'appliquera qu'aux formulaires qui ne sont pas énumérés au nouvel alinéa 33 a).

Le nouvel alinéa 33 b) autorise le ministre à prendre des règlements précisant les types de cautionnements qui peuvent être déposés au tribunal en vertu de l'article 24, ainsi que les formulaires se rapportant à ces types de cautionnements. Ce nouvel alinéa remplace l'alinéa 32 (1) b) actuel, qui autorise le lieutenant-gouverneur en conseil à prendre des règlements précisant ces types de cautionnements. Il remplace également le pouvoir de préciser des formulaires que confère au ministre l'alinéa 31.1 (1) b) dans sa version actuelle et celui que confère au registrateur l'alinéa 31.2 (1) a), qui n'est pas encore en vigueur.

L'annexe apporte des modifications corrélatives au libellé de plusieurs dispositions actuelles de la Loi.

Loi favorisant un Ontario sans fumée

L'annexe apporte des modifications à la Loi pour des raisons d'accessibilité. Des modifications de forme sont également apportées à la version française de la Loi.

CHAPTER 21

An Act to resolve the labour dispute between the College Employer Council and the Ontario Public Service Employees Union

Assented to November 19, 2017

Preamble

The statutory objects of Ontario's colleges of applied arts and technology are to offer a comprehensive program of career-oriented, post-secondary education and training to assist individuals in finding and keeping employment, to meet the needs of employers and the changing work environment and to support the economic and social development of their local and diverse communities.

The College Employer Council, which represents Ontario's colleges for bargaining purposes, and the Ontario Public Service Employees Union were parties to a collective agreement for full-time academic staff that expired on September 30, 2017. The approximately 12,225 faculty (composed of teachers, counsellors and librarians) belonging to the bargaining unit covered by that collective agreement work at 24 colleges across the province.

The parties have engaged in collective bargaining for a new collective agreement for almost 5 months, including mediation with the assistance of the Ministry of Labour, but have failed to resolve the issues in dispute. A strike commenced on October 16, 2017, and classes have been cancelled for approximately five weeks. Continuing efforts of the Ministry of Labour to assist the parties in resolving their differences through mediation have proved unsuccessful.

A vote of the members of the bargaining unit in respect of the Council's last offer was conducted by the Ontario Labour Relations Board. That offer was rejected by the members of the bargaining unit. Negotiations have reached an impasse and the parties are deadlocked.

As a result, the education and preparation for employment of over 220,000 full-time students has been disrupted. College students are a diverse group, including recent secondary school graduates and adults strengthening their work skills or seeking retraining, who come from diverse demographic backgrounds. For a significant number of students, the completion of their academic studies and the successful achievement of the program learning outcomes required for job readiness may be at serious risk.

Education by Ontario's colleges of applied arts and technology serves a critical public function. The colleges deliver approximately 2,400 post-secondary programs approved for funding by the Ministry of Advanced Education and Skills Development at more than 125 locations across Ontario. These programs prepare students for entry into the Ontario labour market. Colleges also deliver approximately 1,430 apprenticeship classes for over 25,000 apprentices, about 8,520 of whom were expected to complete their final level of training this fall. The work stoppage has affected over 8,000 Literacy and Basic Skills and Academic Upgrading learners, almost 2,000 Second Career clients attending a training program at a college and over 5,000 active Employment Services clients participating in assisted services delivered by colleges.

This disruption has significant educational, financial and personal implications for students and their families. These negative consequences, particularly for vulnerable students, may be long term in nature. The continuation of this dispute gives rise to serious public interest concerns.

Having regard to these serious circumstances and the deadlock in negotiations, the public interest requires an exceptional and temporary solution to address the matters in dispute so that a new collective agreement may be concluded through a fair process of mediation-arbitration, so that faculty and students can return to class and so that the colleges can resume providing post-secondary education and preparation for employment.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION AND APPLICATION

Definitions

1 (1) In this Act,

“bargaining agent” means the Ontario Public Service Employees Union; (“agent négociateur”)

“bargaining unit” means the full-time academic staff bargaining unit described in section 1 of Schedule 1 to the *Colleges Collective Bargaining Act, 2008*; (“unité de négociation”)

“employees” means the employees of an employer who are represented by the bargaining agent; (“employés”)

“Minister” means the Minister of Labour; (“ministre”)

“new collective agreement” means a collective agreement that,

- (a) applies to the employees in the bargaining unit, and
- (b) is executed after the day this Act receives Royal Assent or comes into force under subsection 19 (5); (“nouvelle convention collective”)

“parties”, when used in relation to a dispute, a mediation-arbitration proceeding dealing with the dispute or a new collective agreement, means the Council and the bargaining agent. (“parties”)

Interpretation

(2) Expressions used in this Act have the same meaning as in the *Colleges Collective Bargaining Act, 2008*, unless the context requires otherwise.

Application of Act

2 (1) This Act applies to the Council, the employers, the bargaining agent and the employees in the bargaining unit if the Council and the bargaining agent have not executed a collective agreement after September 30, 2017 and before the day this Act receives Royal Assent with respect to the bargaining unit.

Application of *Colleges Collective Bargaining Act, 2008*

(2) Except as modified by this Act, the *Colleges Collective Bargaining Act, 2008* applies to the Council, the employers, the bargaining agent and the employees in the bargaining unit.

Conflict

(3) In the event of a conflict between this Act and the *Colleges Collective Bargaining Act, 2008*, this Act prevails.

STRIKES AND LOCK-OUTS

Duties of employers, bargaining agent, etc.

Operation of undertakings

3 (1) As soon as this Act receives Royal Assent, each employer shall use all reasonable efforts to operate and continue to operate its undertakings, including any operations interrupted during any lock-out or strike that is in effect immediately before this Act receives Royal Assent.

Assistance from the Council

(2) As soon as this Act receives Royal Assent, the Council shall use all reasonable efforts to assist the employers in complying with subsection (1).

Termination of lock-out

(3) As soon as this Act receives Royal Assent, the Council and each employer shall terminate any lock-out of employees in the bargaining unit that is in effect immediately before this Act receives Royal Assent.

Termination of strike

(4) As soon as this Act receives Royal Assent, the bargaining agent shall terminate any strike by employees in the bargaining unit that is in effect immediately before this Act receives Royal Assent.

Same

(5) As soon as this Act receives Royal Assent, each employee in the bargaining unit shall terminate any strike that is in effect before this Act receives Royal Assent and shall, without delay, resume the performance of the duties of his or her employment or shall continue performing them, as the case may be.

Exception

(6) Subsection (5) does not preclude an employee in the bargaining unit from not reporting to work and performing his or her duties for reasons of health or by mutual consent of the employee and the employer.

Prohibition re strike

4 (1) Subject to section 6, no employee in the bargaining unit shall strike and no person or employee organization shall call or authorize or threaten to call or authorize a strike by any employees in the bargaining unit.

Same

(2) Subject to section 6, no officer, official or agent of an employee organization shall counsel, procure, support or encourage a strike by any employees in the bargaining unit.

Prohibition re lock-out

5 (1) Subject to section 6, the Council or an employer shall not lock out or threaten to lock out any employees in the bargaining unit.

Same

(2) Subject to section 6, no officer, official or agent of the Council or of an employer shall counsel, procure, support or encourage a lock-out of any employees in the bargaining unit.

Strike or lock-out after new collective agreement

6 After a new collective agreement is executed by the parties or comes into force under subsection 19 (5), the *Colleges Collective Bargaining Act, 2008* governs the right of the employees in the bargaining unit to strike and the right of the Council or an employer to lock out those employees.

Offence

7 (1) A person, including the employer, or an employee organization who contravenes or fails to comply with section 3, 4 or 5 is guilty of an offence and on conviction is liable,

(a) in the case of an individual, to a fine of not more than \$1,000; and

(b) in any other case, to a fine of not more than \$25,000.

Continuing offence

(2) Each day of a contravention or failure to comply constitutes a separate offence.

Related matters

(3) Subsections 63 (4) and (5) and sections 65, 67 and 75 of the *Colleges Collective Bargaining Act, 2008* apply with necessary modifications with respect to an offence under this Act.

Deeming provision: unlawful strike or lock-out

8 A strike or lock-out in contravention of section 3, 4 or 5 is deemed to be an unlawful strike or lock-out for the purposes of the *Colleges Collective Bargaining Act, 2008*.

Terms of employment

9 Until a new collective agreement is executed by the parties or comes into force under subsection 19 (5), the terms and conditions of employment that applied with respect to the employees in the bargaining unit on the day before the first day on which it became lawful for any of the employees to strike continue to apply, unless the parties agree otherwise.

MEDIATION-ARBITRATION**Deemed referral to mediation-arbitration**

10 If this Act applies to the Council, the employers and the bargaining agent in respect of the bargaining unit, the parties are deemed to have referred to a mediator-arbitrator, on the day this Act receives Royal Assent, all matters remaining in dispute between them with respect to the terms and conditions of employment of the employees in the bargaining unit.

Appointment of mediator-arbitrator

11 (1) On or before the fifth day after this Act receives Royal Assent, the parties shall jointly appoint the mediator-arbitrator referred to in section 10 and shall forthwith notify the Minister of the name and address of the person appointed.

Same

(2) If the parties fail to notify the Minister as subsection (1) requires, the Minister shall forthwith appoint the mediator-arbitrator and notify the parties of the name and address of the person appointed.

Replacement

(3) If the parties notify the Minister that they agree that the mediator-arbitrator is unable or unwilling to perform his or her duties so as to make an award, the parties shall, on or before the fifth day after the notification, jointly appoint a new mediator-arbitrator and shall forthwith notify the Minister of the name and address of the person appointed.

Same

(4) If the Minister notifies the parties that in the Minister's opinion the mediator-arbitrator is unable or unwilling to perform his or her duties so as to make an award, the parties shall, on or before the fifth day after the notification, jointly appoint a new mediator-arbitrator and shall forthwith notify the Minister of the name and address of the person appointed.

Same

(5) If the parties fail to notify the Minister as subsection (3) or (4) requires, the Minister shall forthwith appoint a new mediator-arbitrator and notify the parties of the name and address of the person appointed.

Same

(6) The mediation-arbitration process shall begin anew on the appointment of a new mediator-arbitrator under subsection (3), (4) or (5).

Minister's power

(7) The Minister may appoint as a mediator-arbitrator a person who is, in the opinion of the Minister, qualified to act.

Appointment and proceedings of mediator-arbitrator not subject to review

(8) It is conclusively presumed that the appointment of a mediator-arbitrator made under this section is properly made, and no application shall be made to question the appointment or to prohibit or restrain any of the mediator-arbitrator's proceedings.

Jurisdiction of mediator-arbitrator

12 (1) The mediator-arbitrator has exclusive jurisdiction to determine all matters that he or she considers necessary to conclude a new collective agreement.

Time period

(2) The mediator-arbitrator remains seized of and may deal with all matters within his or her jurisdiction until the new collective agreement is executed by the parties or comes into force under subsection 19 (5).

Mediation

(3) The mediator-arbitrator may try to assist the parties to settle any matter that he or she considers necessary to conclude the new collective agreement.

Notice, matters agreed on

(4) As soon as possible after a mediator-arbitrator is appointed, but in any event no later than seven days after the appointment, the parties shall give the mediator-arbitrator written notice of the matters on which they reached agreement before the appointment.

Same

(5) The parties may at any time give the mediator-arbitrator written notice of matters on which they reach agreement after the appointment of a mediator-arbitrator.

Time limits

13 (1) The mediator-arbitrator shall begin the mediation-arbitration proceeding within 30 days after being appointed and shall make all awards under this Act within 90 days after being appointed, unless the proceeding is terminated under subsection 18 (2).

Extensions

(2) The parties and the mediator-arbitrator may, by written agreement, extend a time period specified in subsection (1) either before or after it expires.

Procedure

14 (1) The mediator-arbitrator shall determine the procedure for the mediation-arbitration but shall permit the parties to present evidence and make submissions.

Application of s. 14 (12) (a) to (i) of *Colleges Collective Bargaining Act, 2008*

(2) Clauses 14 (12) (a) to (i) of the *Colleges Collective Bargaining Act, 2008* apply, with necessary modifications, to proceedings before the mediator-arbitrator and to his or her decisions.

Exclusions

(3) The *Arbitration Act, 1991* and the *Statutory Powers Procedure Act* do not apply to mediation-arbitration proceedings under this Act.

Award of mediator-arbitrator

15 (1) An award by the mediator-arbitrator under this Act shall address all the matters to be dealt with in the new collective agreement with respect to the parties and the bargaining unit.

Criteria

(2) In making an award, the mediator-arbitrator shall take into consideration all factors that he or she considers relevant, including the following criteria:

1. The employers' ability to pay in light of their fiscal situations.
2. The extent to which services may have to be reduced, in light of the award, if current funding and taxation levels are not increased.
3. The economic situation in Ontario.
4. A comparison, as between the employees and comparable employees in the public and private sectors, of the nature of the work performed and of the terms and conditions of employment.
5. The employers' ability to attract and retain qualified employees.
6. The purposes of the *Public Sector Dispute Resolution Act, 1997*.

Interpretation

(3) The definition of "employees" in subsection 1 (1) does not apply for the purpose of subsection (2).

Retroactive alteration of terms of employment

(4) The award may provide for the retroactive alteration of one or more terms and conditions of employment, to one or more dates after September 30, 2017, and may do so despite section 9.

Effect of award

16 The award of a mediator-arbitrator under this Act is final and binding on the parties, on the employers and on the employees in the bargaining unit.

Costs

17 Each party shall pay one-half of the fees and expenses of the mediator-arbitrator.

Continued negotiation

18 (1) Until an award is made, nothing in sections 10 to 17 prohibits the parties from continuing to negotiate with a view to making a new collective agreement and they are encouraged to do so.

New collective agreement concluded by parties

(2) If the parties execute a new collective agreement before an award is made, they shall notify the mediator-arbitrator of the fact and the mediation-arbitration proceeding is thereby terminated.

EXECUTION OF NEW COLLECTIVE AGREEMENT**Execution of new collective agreement**

19 (1) Within seven days after the mediator-arbitrator makes an award, the parties shall prepare and execute documents giving effect to the award.

Same

(2) The documents required by subsection (1) constitute the new collective agreement between the parties.

Extension

(3) The mediator-arbitrator may extend the period referred to in subsection (1), but the extended period shall end no later than 30 days after the mediator-arbitrator made the award.

Preparation by mediator-arbitrator

(4) If the parties do not prepare and execute the documents as required under subsections (1) and (3), the mediator-arbitrator shall prepare the necessary documents and give them to the parties for execution.

Failure to execute

(5) If either party fails to execute the documents prepared by the mediator-arbitrator within seven days after receiving them, the documents come into force as though they had been executed by the parties and those documents constitute the new collective agreement between the parties.

REPEAL**Repeal**

20 This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.

COMMENCEMENT AND SHORT TITLE**Commencement**

21 This Act comes into force on the day it receives Royal Assent.

Short title

22 The short title of this Act is the *Colleges of Applied Arts and Technology Labour Dispute Resolution Act, 2017*.

EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 178 and does not form part of the law.
Bill 178 has been enacted as Chapter 21 of the Statutes of Ontario, 2017.*

The Bill addresses the labour dispute between the College Employer Council and the Ontario Public Service Employees Union. It requires the termination of any strike or lock-out and provides a mechanism for achieving a new collective agreement.

CHAPITRE 21

Loi visant à régler le conflit de travail entre le Conseil des employeurs des collèges et le Syndicat des employés de la fonction publique de l'Ontario

Sanctionnée le 19 novembre 2017

Préambule

Selon la loi, les collèges d'arts appliqués et de technologie de l'Ontario ont pour objets d'offrir un programme complet d'enseignement et de formation postsecondaires axé sur la carrière afin d'aider les particuliers à trouver et à conserver un emploi, de répondre aux besoins des employeurs et d'un milieu de travail en évolution et de soutenir le développement économique et social de leurs collectivités locales variées.

Le Conseil des employeurs des collèges, qui représente les collèges de l'Ontario aux fins de négociation, et le Syndicat des employés de la fonction publique de l'Ontario étaient parties à une convention collective applicable au corps enseignant à temps plein qui a expiré le 30 septembre 2017. Les quelque 12 225 enseignants, conseillers et bibliothécaires compris dans l'unité de négociation visée par cette convention collective travaillent dans 24 collèges répartis dans toute la province.

Bien que les parties négocient depuis près de cinq mois en vue de conclure une nouvelle convention collective, y compris en participant à une médiation avec l'aide du ministère du Travail, elles n'ont pas réussi à régler les questions en litige. Une grève a commencé le 16 octobre 2017 et les cours sont annulés depuis environ cinq semaines. Les efforts continus du ministère du Travail pour aider les parties à résoudre leurs différends au moyen de la médiation se sont révélés vains.

Dans le cadre d'un vote tenu par la Commission des relations de travail de l'Ontario sur la dernière offre du Conseil, les membres de l'unité de négociation ont refusé cette offre. Les négociations sont au point mort et les parties sont dans une impasse.

L'éducation et la préparation à l'emploi de plus de 220 000 étudiants à temps plein s'en trouvent perturbées. Les étudiants des collèges forment un groupe divers, comprenant des diplômés récents du secondaire et des adultes qui perfectionnent leurs compétences professionnelles ou cherchent à se recycler, issus de milieux démographiques divers. Pour un grand nombre de ces étudiants, l'achèvement de leurs études et la réussite des objectifs d'apprentissage du programme nécessaires à leur employabilité risquent fort d'être compromis.

L'enseignement dispensé par les collèges d'arts appliqués et de technologie de l'Ontario joue un rôle social fondamental. Les collèges offrent environ 2 400 programmes d'enseignement postsecondaire dont le financement est approuvé par le ministère de l'Enseignement supérieur et de la Formation professionnelle dans plus de 125 emplacements de tout l'Ontario. Ces programmes préparent les étudiants à entrer sur le marché du travail en Ontario. Les collèges offrent aussi quelque 1 430 cours de formation à plus de 25 000 apprentis, dont environ 8 520 devraient terminer leur dernier niveau de formation cet automne. L'arrêt de travail touche plus de 8 000 apprenants inscrits dans des programmes d'alphabetisation et de formation de base et des programmes de rattrapage scolaire, près de 2 000 clients inscrits à un programme collégial de formation Deuxième carrière et plus de 5 000 clients de services d'emploi qui participent activement à des services assistés offerts par les collèges.

Cette perturbation a des repercussions importantes pour les étudiants et leurs familles, sur les plans éducatif, financier et personnel. Ces effets négatifs, en particulier pour les étudiants vulnérables, pourraient se faire sentir à long terme. La persistance de ce conflit donne donc lieu à de graves préoccupations d'intérêt public.

Compte tenu de la gravité de cette situation et de l'impasse dans laquelle se trouvent les négociations, l'intérêt public exige une solution exceptionnelle et temporaire pour traiter les questions en litige afin qu'une nouvelle convention collective puisse être conclue au moyen d'un processus équitable de médiation-arbitrage, que le corps enseignant et les étudiants puissent retourner à leurs cours et que les collèges puissent recommencer à dispenser un enseignement postsecondaire et la préparation à l'emploi.

Pour ces motifs, Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte

INTERPRÉTATION ET APPLICATION

Définitions

1 (1) Les définitions qui suivent s'appliquent à la présente loi.

«agent négociateur» Le Syndicat des employés de la fonction publique de l'Ontario. («bargaining agent»)

«employés» Les employés d'un employeur qui sont représentés par l'agent négociateur. («employees»)

«ministre» Le ministre du Travail. («Minister»)

«nouvelle convention collective» Convention collective qui :

a) d'une part, s'applique aux employés compris dans l'unité de négociation;

b) d'autre part, est passée après le jour où la présente loi reçoit la sanction royale ou entre en vigueur en application du paragraphe 19 (5). («new collective agreement»)

«parties» Relativement à un différend, à une procédure de médiation-arbitrage portant sur ce différend ou à une nouvelle convention collective, s'entend du Conseil et de l'agent négociateur. («parties»)

«unité de négociation» Unité de négociation du corps enseignant à temps plein visée à l'article 1 de l'annexe 1 de la *Loi de 2008 sur la négociation collective dans les collèges*. («bargaining unit»)

Interprétation

(2) Les expressions employées dans la présente loi s'entendent au sens de la *Loi de 2008 sur la négociation collective dans les collèges*, sauf indication contraire du contexte.

Application de la Loi

2 (1) La présente loi s'applique au Conseil, aux employeurs, à l'agent négociateur et aux employés compris dans l'unité de négociation si le Conseil et l'agent négociateur n'ont pas passé de convention collective à l'égard de l'unité de négociation après le 30 septembre 2017 et avant le jour où la présente loi reçoit la sanction royale.

Application de la Loi de 2008 sur la négociation collective dans les collèges

(2) Sauf adaptations prévues par la présente loi, la *Loi de 2008 sur la négociation collective dans les collèges* s'applique au Conseil, aux employeurs, à l'agent négociateur et aux employés compris dans l'unité de négociation.

Incompatibilité

(3) En cas d'incompatibilité, la présente loi l'emporte sur la *Loi de 2008 sur la négociation collective dans les collèges*.

GRÈVES ET LOCK-OUT

Obligations des employeurs, de l'agent négociateur, etc.**Fonctionnement des opérations**

3 (1) Dès que la présente loi reçoit la sanction royale, chaque employeur fait tous les efforts raisonnables pour faire et continuer de faire fonctionner ses opérations, notamment les opérations interrompues durant tout lock-out ou toute grève qui est en cours immédiatement avant que la présente loi ne reçoive la sanction royale.

Aide du Conseil

(2) Dès que la présente loi reçoit la sanction royale, le Conseil fait tous les efforts raisonnables pour aider les employeurs à se conformer au paragraphe (1).

Cessation de tout lock-out

(3) Dès que la présente loi reçoit la sanction royale, le Conseil et chaque employeur met fin à tout lock-out d'employés compris dans l'unité de négociation qui est en cours immédiatement avant que la présente loi ne reçoive la sanction royale.

Cessation de toute grève

(4) Dès que la présente loi reçoit la sanction royale, l'agent négociateur met fin à toute grève d'employés compris dans l'unité de négociation qui est en cours immédiatement avant que la présente loi ne reçoive la sanction royale.

Idem

(5) Dès que la présente loi reçoit la sanction royale, chaque employé compris dans l'unité de négociation cesse toute grève qui est en cours avant que la présente loi ne reçoive la sanction royale et, sans tarder, reprend l'exercice des fonctions rattachées à son emploi ou continue de les exercer, selon le cas.

Exception

(6) Le paragraphe (5) n'a pas pour effet d'empêcher un employé compris dans l'unité de négociation de ne pas se présenter au travail et de ne pas exercer ses fonctions pour cause de maladie ou avec le consentement de l'employeur.

Interdiction de grève

4 (1) Sous réserve de l'article 6, aucun employé compris dans l'unité de négociation ne doit faire grève et aucune personne ni aucune association d'employés ne doit lancer un ordre de grève à des employés compris dans l'unité de négociation, ni les autoriser à faire grève, ni ne doit menacer de le faire.

Idem

(2) Sous réserve de l'article 6, aucun dirigeant ou agent d'une association d'employés ne doit recommander, provoquer, appuyer ni encourager une grève d'employés compris dans l'unité de négociation.

Interdiction de lock-out

5 (1) Sous réserve de l'article 6, le Conseil ou un employeur ne doit pas lock-outer ni menacer de lock-outer des employés compris dans l'unité de négociation.

Idem

(2) Sous réserve de l'article 6, aucun dirigeant ou agent du Conseil ou d'un employeur ne doit recommander, provoquer, appuyer ni encourager un lock-out d'employés compris dans l'unité de négociation.

Grève ou lock-out après la passation d'une nouvelle convention collective

6 Après la passation par les parties d'une nouvelle convention collective ou son entrée en vigueur en application du paragraphe 19 (5), la *Loi de 2008 sur la négociation collective dans les collèges* régit le droit de grève des employés compris dans l'unité de négociation et le droit du Conseil ou d'un employeur de les lock-outer.

Infraction

7 (1) Toute personne, y compris l'employeur, ou une association d'employés qui contrevient ou ne se conforme pas à l'article 3, 4 ou 5 est coupable d'une infraction et passible, sur déclaration de culpabilité :

- a) d'une amende maximale de 1 000 \$, dans le cas d'un particulier;
- b) d'une amende maximale de 25 000 \$, dans tout autre cas.

Infraction répétée

(2) Chaque jour où se poursuit une contravention ou un défaut de se conformer constitue une infraction distincte.

Questions connexes

(3) Les paragraphes 63 (4) et (5) et les articles 65, 67 et 75 de la *Loi de 2008 sur la négociation collective dans les collèges* s'appliquent, avec les adaptations nécessaires, à l'égard d'une infraction à la présente loi.

Disposition déterminative : grève ou lock-out illicites

8 La grève ou le lock-out qui contrevient à l'article 3, 4 ou 5 est réputé être une grève ou un lock-out illicites pour l'application de la *Loi de 2008 sur la négociation collective dans les collèges*.

Conditions d'emploi

9 Jusqu'à la passation par les parties d'une nouvelle convention collective ou son entrée en vigueur en application du paragraphe 19 (5), les conditions d'emploi qui s'appliquaient à l'égard des employés compris dans l'unité de négociation la veille du premier jour où il est devenu légal pour eux de faire grève continuent de s'appliquer, sauf entente contraire entre les parties.

MÉDIATION-ARBITRAGE**Renvoi à la procédure de médiation-arbitrage**

10 Si la présente loi s'applique au Conseil, aux employeurs et à l'agent négociateur à l'égard de l'unité de négociation, les parties sont réputées avoir renvoyé à un médiateur-arbitre, le jour où la présente loi reçoit la sanction royale, toutes les questions en litige qui continuent de les opposer en ce qui a trait aux conditions d'emploi des employés compris dans l'unité de négociation.

Nomination d'un médiateur-arbitre

11 (1) Au plus tard cinq jours après que la présente loi a reçu la sanction royale, les parties nomment conjointement le médiateur-arbitre visé à l'article 10 et avisent sans délai le ministre du nom et de l'adresse de celui-ci.

Idem

(2) Si les parties ne l'avisent pas comme l'exige le paragraphe (1), le ministre nomme sans délai le médiateur-arbitre et avise aussitôt les parties du nom et de l'adresse de celui-ci.

Remplacement

(3) Si elles avisent le ministre qu'elles sont d'accord que le médiateur-arbitre ne peut ou ne veut pas remplir les fonctions qui lui incombent pour pouvoir rendre une sentence arbitrale, les parties nomment conjointement, au plus tard cinq jours après avoir avisé le ministre, un nouveau médiateur-arbitre et avisent sans délai le ministre du nom et de l'adresse de celui-ci.

Idem

(4) Si le ministre les avise que, selon lui, le médiateur-arbitre ne peut ou ne veut pas remplir les fonctions qui lui incombent pour pouvoir rendre une sentence arbitrale, les parties nomment conjointement, au plus tard cinq jours après avoir été avisées, un nouveau médiateur-arbitre et avisent sans délai le ministre du nom et de l'adresse de celui-ci.

Idem

(5) Si les parties ne l'avisent pas comme l'exige le paragraphe (3) ou (4), le ministre nomme sans délai un nouveau médiateur-arbitre et avise aussitôt les parties du nom et de l'adresse de celui-ci.

Idem

(6) Le processus de médiation-arbitrage reprend depuis le début lorsqu'un nouveau médiateur-arbitre est nommé en application du paragraphe (3), (4) ou (5).

Pouvoir du ministre

(7) Le ministre peut nommer médiateur-arbitre quiconque est, à son avis, compétent pour agir en cette qualité.

Nomination et travaux du médiateur-arbitre non susceptibles de révision

(8) Il est présumé, de façon irréfragable, que la nomination d'un médiateur-arbitre faite en application du présent article est faite de façon régulière. Est irrecevable toute requête en contestation de la nomination ou toute requête visant à faire interdire ou restreindre les travaux du médiateur-arbitre.

Compétence du médiateur-arbitre

12 (1) Le médiateur-arbitre a compétence exclusive pour trancher toutes les questions qu'il estime nécessaires à la conclusion d'une nouvelle convention collective.

Durée de la médiation-arbitrage

(2) Le médiateur-arbitre demeure saisi de toutes les questions qui relèvent de sa compétence et peut les traiter jusqu'à la passation par les parties de la nouvelle convention collective ou son entrée en vigueur en application du paragraphe 19 (5).

Médiation

(3) Le médiateur-arbitre peut essayer d'aider les parties à régler toute question qu'il estime nécessaire à la conclusion de la nouvelle convention collective.

Avis : accord sur des questions

(4) Dès que possible après la nomination du médiateur-arbitre, mais en tout cas au plus tard sept jours après celle-ci, les parties l'avisent par écrit des questions sur lesquelles elles se sont mises d'accord avant sa nomination.

Idem

(5) Les parties peuvent en tout temps aviser par écrit le médiateur-arbitre des questions sur lesquelles elles se mettent d'accord après sa nomination.

Délais

13 (1) Le médiateur-arbitre commence la procédure de médiation-arbitrage dans les 30 jours suivant sa nomination et il rend toutes les sentences arbitrales visées par la présente loi dans les 90 jours suivant sa nomination, sauf si la procédure a pris fin en application du paragraphe 18 (2).

Prorogation

(2) Les parties et le médiateur-arbitre peuvent, par voie d'accord écrit, proroger un délai précisé au paragraphe (1) avant ou après son expiration.

Procédure

14 (1) Le médiateur-arbitre établit la procédure de la médiation-arbitrage, mais permet aux parties de présenter des preuves et de faire des observations.

Application des alinéas 14 (12) a) à i) de la Loi de 2008 sur la négociation collective dans les collèges

(2) Les alinéas 14 (12) a) à i) de la *Loi de 2008 sur la négociation collective dans les collèges* s'appliquent, avec les adaptations nécessaires, aux instances tenues devant le médiateur-arbitre ainsi qu'à ses décisions.

Non-application de certaines lois

(3) La *Loi de 1991 sur l'arbitrage* et la *Loi sur l'exercice des compétences légales* ne s'appliquent pas aux procédures de médiation-arbitrage prévues par la présente loi.

Sentence du médiateur-arbitre

15 (1) Toute sentence que rend le médiateur-arbitre en application de la présente loi traite toutes les questions que doit traiter la nouvelle convention collective visant les parties et l'unité de négociation.

Critères

(2) Pour rendre sa sentence, le médiateur-arbitre prend en considération tous les facteurs qu'il estime pertinents, notamment les critères suivants :

1. La capacité de payer des employeurs compte tenu de leur situation financière.
2. La mesure dans laquelle des services devront peut-être être réduits, compte tenu de la sentence arbitrale, si les niveaux de financement et d'imposition actuels ne sont pas relevés.
3. La situation économique prévalant en Ontario.
4. La comparaison, établie entre les employés et des employés comparables des secteurs public et privé, des conditions d'emploi et de la nature du travail exécuté.
5. La capacité des employeurs d'attirer et de garder des employés qualifiés.
6. Les objets de la *Loi de 1997 sur le règlement des différends dans le secteur public*.

Interprétation

(3) La définition de «employés» au paragraphe 1 (1) ne s'applique pas dans le cadre du paragraphe (2).

Modification rétroactive des conditions d'emploi

(4) Malgré l'article 9, la sentence arbitrale peut prévoir la modification rétroactive d'une ou de plusieurs conditions d'emploi, à une ou à plusieurs dates qui tombent après le 30 septembre 2017.

Effet de la sentence arbitrale

16 La sentence que rend le médiateur-arbitre en application de la présente loi est définitive et lie les parties, les employeurs et les employés compris dans l'unité de négociation.

Frais

17 Chaque partie paie la moitié des honoraires et des indemnités du médiateur-arbitre.

Poursuite de la négociation

18 (1) Tant qu'une sentence arbitrale n'est pas rendue, les articles 10 à 17 n'ont pas pour effet d'interdire aux parties de continuer à négocier en vue de conclure une nouvelle convention collective, ce qu'elles sont encouragées à faire.

Nouvelle convention collective conclue par les parties

(2) Si elles passent une nouvelle convention collective avant qu'une sentence arbitrale ne soit rendue, les parties en avisent le médiateur-arbitre et la procédure de médiation-arbitrage prend alors fin.

PASSATION DE LA NOUVELLE CONVENTION COLLECTIVE**Passation de la nouvelle convention collective**

19 (1) Au plus tard sept jours après que le médiateur-arbitre a rendu sa sentence, les parties préparent et passent les documents lui donnant effet.

Idem

(2) Les documents exigés par le paragraphe (1) constituent la nouvelle convention collective entre les parties.

Prorogation

(3) Le médiateur-arbitre peut proroger le délai visé au paragraphe (1). Toutefois, le délai prorogé doit se terminer au plus tard 30 jours après que le médiateur-arbitre a rendu sa sentence.

Préparation des documents par le médiateur-arbitre

(4) Si les parties ne préparent pas les documents ou ne les passent pas comme l'exigent les paragraphes (1) et (3), le médiateur-arbitre prépare les documents nécessaires et les remet aux parties aux fins de passation.

Défaut de passation

(5) Si l'une ou l'autre partie omet de passer les documents que le médiateur-arbitre a préparés au plus tard sept jours après les avoir reçus, ceux-ci entrent en vigueur comme s'ils avaient été passés par les parties et constituent la nouvelle convention collective entre les parties.

ABROGATION**Abrogation**

20 La présente loi est abrogée le jour que le lieutenant-gouverneur fixe par proclamation.

ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ**Entrée en vigueur**

21 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Titre abrégé

22 Le titre abrégé de la présente loi est *Loi de 2017 sur le règlement du conflit de travail dans les collèges d'arts appliqués et de technologie*.

NOTE EXPLICATIVE

La note explicative, rédigée à titre de service aux lecteurs du projet de loi 178, ne fait pas partie de la loi.

Le projet de loi 178 a été édicté et constitue maintenant le chapitre 21 des Lois de l'Ontario de 2017.

Le projet de loi traite du conflit de travail qui oppose le Conseil des employeurs des collèges et le Syndicat des employés de la fonction publique de l'Ontario. Il exige la cessation de toute grève ou de tout lock-out et prévoit un mécanisme permettant d'en arriver à une convention collective.

CHAPTER 22

An Act to amend the Employment Standards Act, 2000, the Labour Relations Act, 1995 and the Occupational Health and Safety Act and to make related amendments to other Acts

Assented to November 27, 2017

CONTENTS

1.	Contents of this Act
2.	Commencement
3.	Short title
Schedule 1	Employment Standards Act, 2000
Schedule 2	Labour Relations Act, 1995
Schedule 3	Occupational Health and Safety Act

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Fair Workplaces, Better Jobs Act, 2017*.

SCHEDULE 1
EMPLOYMENT STANDARDS ACT, 2000

1 (1) Subsection 1 (1) of the *Employment Standards Act, 2000* is amended by adding the following definitions:

“assignment employee” means an employee employed by a temporary help agency for the purpose of being assigned to perform work on a temporary basis for clients of the agency; (“employé ponctuel”)

“client”, in relation to a temporary help agency, means a person or entity that enters into an arrangement with the agency under which the agency agrees to assign or attempt to assign one or more of its assignment employees to perform work for the person or entity on a temporary basis; (“client”)

(2) Subsection 1 (1) of the Act is amended by adding the following definition:

“difference in employment status”, in respect of one or more employees, means,

- (a) a difference in the number of hours regularly worked by the employees; or
- (b) a difference in the term of their employment, including a difference in permanent, temporary, seasonal or casual status; (“situation d’emploi différente”)

(3) Subsection 1 (1) of the Act is amended by adding the following definition:

“domestic or sexual violence leave pay” means pay for any paid days of leave taken under section 49.7; (“indemnité de congé en cas de violence familiale ou sexuelle”)

(4) Clause (c) of the definition of “employee” in subsection 1 (1) of the Act is repealed and the following substituted:

- (c) a person who receives training from a person who is an employer, if the skill in which the person is being trained is a skill used by the employer’s employees, or

(5) Subsection 1 (1) of the Act is amended by adding the following definition:

“personal emergency leave pay” means pay for any paid days of leave taken under section 50; (“indemnité de congé d’urgence personnelle”)

(6) The definition of “public holiday” in subsection 1 (1) of the Act is amended by adding the following paragraph:

- 1.1 Family Day, being the third Monday in February.

(7) The definition of “regular wages” in subsection 1 (1) of the Act is repealed and the following substituted:

“regular wages” means wages other than overtime pay, public holiday pay, premium pay, vacation pay, domestic or sexual violence leave pay, personal emergency leave pay, termination pay, severance pay and termination of assignment pay and entitlements under a provision of an employee’s contract of employment that under subsection 5 (2) prevail over Part VIII, Part X, Part XI, section 49.7, section 50, Part XV or section 74.10.1; (“salaire normal”)

(8) The definition of “stub period” in subsection 1 (1) of the Act is amended by striking out “that starts on or after the day on which section 3 of Schedule J to the *Government Efficiency Act, 2002* comes into force” in the portion before clause (a).

(9) Subsection 1 (1) of the Act is amended by adding the following definitions:

“temporary help agency” means an employer that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer; (“agence de placement temporaire”)

“termination of assignment pay” means pay provided to an assignment employee when the employee’s assignment is terminated before the end of its estimated term under section 74.10.1; (“indemnité de fin d’affectation”)

“tip or other gratuity” means,

- (a) a payment voluntarily made to or left for an employee by a customer of the employee’s employer in such circumstances that a reasonable person would be likely to infer that the customer intended or assumed that the payment would be kept by the employee or shared by the employee with other employees,
- (b) a payment voluntarily made to an employer by a customer in such circumstances that a reasonable person would be likely to infer that the customer intended or assumed that the payment would be redistributed to an employee or employees,
- (c) a payment of a service charge or similar charge imposed by an employer on a customer in such circumstances that a reasonable person would be likely to infer that the customer intended or assumed that the payment would be redistributed to an employee or employees, and
- (d) such other payments as may be prescribed,

but does not include,

(e) such payments as may be prescribed, and

(f) such charges as may be prescribed relating to the method of payment used, or a prescribed portion of those charges: ("pourboire ou autre gratification")

(10) Clause (d) of the definition of "wages" in subsection 1 (1) of the Act is repealed and the following substituted:

(d) tips or other gratuities,

(11) Subsection 1 (2) of the Act is repealed and the following substituted:

Assignment to perform work includes training

(2) For greater certainty, being assigned to perform work for a client of a temporary help agency includes being assigned to the client to receive training for the purpose of performing work for the client.

(12) Section 1 of the Act is amended by adding the following subsection:

Electronic form

(3.1) The requirement in subsection (3) for an agreement to be in writing is satisfied if the agreement is in electronic form.

2 (1) Subsection 3 (4) of the Act is repealed.

(2) Subsection 3 (5) of the Act is amended by adding the following paragraph:

2.1 An individual who performs work under a program that is approved by a private career college registered under the *Private Career Colleges Act, 2005* and that meets such criteria as may be prescribed.

(3) Paragraph 6 of subsection 3 (5) of the Act is repealed.

3 The Act is amended by adding the following section:

Crown bound

3.1 This Act binds the Crown.

4 (1) Subsection 4 (1) of the Act is repealed and the following substituted:

Separate persons treated as one employer

(1) Subsection (2) applies if associated or related activities or businesses are or were carried on by or through an employer and one or more other persons.

(2) Section 4 of the Act is amended by adding the following subsection:

Exception, Crown

(4.1) Subsection (2) does not apply to the Crown, a Crown agency or an authority, board, commission or corporation all of whose members are appointed by the Crown.

5 The Act is amended by adding the following section:

No treating as if not employee

5.1 (1) An employer shall not treat, for the purposes of this Act, a person who is an employee of the employer as if the person were not an employee under this Act.

Onus of proof

(2) Subject to subsection 122 (4), if, during the course of an employment standards officer's investigation or inspection or in any proceeding under this Act, other than a prosecution, an employer or alleged employer claims that a person is not an employee, the burden of proof that the person is not an employee lies upon the employer or alleged employer.

6 Subsection 11 (2) of the Act is repealed and the following substituted:

Method of payment

(2) An employer shall pay an employee's wages,

(a) by cash;

(b) by cheque payable only to the employee;

(c) by direct deposit in accordance with subsection (4); or

(d) by any other prescribed method of payment.

7 Section 14.1 of the Act is repealed.

8 (1) Subsection 15 (1) of the Act is amended by adding the following paragraphs:

- 3.1 The dates and times that the employee worked.
- 3.2 If the employee has two or more regular rates of pay for work performed for the employer and, in a work week, the employee performed work for the employer in excess of the overtime threshold, the dates and times that the employee worked in excess of the overtime threshold at each rate of pay.

(2) Subsection 15 (1) of the Act is amended by adding the following paragraphs:

- 3.3 The dates and times that the employee was scheduled to work or to be on call for work, and any changes made to the on call schedule.
- 3.4 Any cancellations of a scheduled day of work or scheduled on call period of the employee, as described in subsection 21.6 (2), and the date and time of the cancellation.

(3) Paragraph 5 of subsection 15 (1) of the Act is amended by striking out “section 12.1” and substituting “section 12.1, subsections 27 (2.1), 28 (2.1), 29 (1.1) and 30 (2.1)”.**(4) Subsection 15 (3) of the Act is amended by striking out “paragraph 4” in the portion before clause (a) and substituting “paragraph 3.1 or 4”.****(5) Paragraph 3 of subsection 15 (5) of the Act is amended by striking out “paragraph 4” and substituting “paragraph 3.1, 3.2 or 4”.****(6) Paragraph 3 of subsection 15 (5) of the Act, as amended by subsection (5), is amended by striking out “paragraph 3.1, 3.2 or 4” and substituting “paragraph 3.1, 3.2, 3.3, 3.4 or 4”.****(7) Subsection 15 (7) of the Act is amended by striking out “critically ill child care leave” and substituting “critical illness leave”.****(8) Subsection 15 (7) of the Act is amended by striking out “crime-related child death or disappearance leave” and substituting “child death leave, crime-related child disappearance leave, domestic or sexual violence leave”.****9 (1) Subsection 15.1 (2) of the Act is amended by adding the following paragraph:**

- 4.1 The amount of vacation pay that the employee earned during the vacation entitlement year and how that amount was calculated.

(2) Subsection 15.1 (3) of the Act is amended,

- (a) by striking out “for an employee an alternative vacation entitlement year that starts on or after the day on which section 3 of Schedule J to the *Government Efficiency Act, 2002* comes into force” in the portion before paragraph 1 and substituting “an alternative vacation entitlement year for an employee”; and

(b) by adding the following paragraph:

- 3.1 The amount of vacation pay that the employee earned during the stub period and how that amount was calculated.

(3) Subsection 15.1 (5) of the Act is amended by striking out “three years” and substituting “five years”.**(4) Subsection 15.1 (7) of the Act is repealed and the following substituted:****Transition**

(7) Subsections 15.1 (2) and (3), as they read immediately before the day section 9 of Schedule 1 to the *Fair Workplaces, Better Jobs Act, 2017* came into force, continue to apply with respect to vacation entitlement years and stub periods that began before that day.

10 The French version of subsection 18 (2) of the Act is amended by striking out “sur demande” and substituting “sur appel”.**11 The Act is amended by adding the following Part:**

PART VII.1
REQUESTS FOR CHANGES TO SCHEDULE OR WORK LOCATION

Request for changes to schedule or work location

21.2 (1) An employee who has been employed by his or her employer for at least three months may submit a request, in writing, to the employer requesting changes to the employee’s schedule or work location.

Receipt of request

(2) An employer who receives a request under subsection (1) shall,

- (a) discuss the request with the employee; and

(b) notify the employee of the employer's decision within a reasonable time after receiving it.

Grant of request

(3) If the employer grants the request or any part of it, the notification in clause (2) (b) must specify the date that the changes will take effect and their duration.

Denial of request

(4) If the employer denies the request or any part of it, the notification in clause (2) (b) must include the reasons for the denial.

12 The Act is amended by adding the following Part:**PART VII.2
SCHEDULING****Three hour rule**

21.3 (1) If an employee who regularly works more than three hours a day is required to present himself or herself for work but works less than three hours, despite being available to work longer, the employer shall pay the employee wages for three hours, equal to the greater of the following:

1. The sum of,
 - i. the amount the employee earned for the time worked, and
 - ii. wages equal to the employee's regular rate for the remainder of the time.
2. Wages equal to the employee's regular rate for three hours of work.

Exception

(2) Subsection (1) does not apply if the employer is unable to provide work for the employee because of fire, lightning, power failure, storms or similar causes beyond the employer's control that result in the stopping of work.

Minimum pay for being on call

21.4 (1) If an employee who is on call to work is not required to work or is required to work but works less than three hours, despite being available to work longer, the employer shall pay the employee wages for three hours, equal to the greater of the following:

1. The sum of,
 - i. the amount the employee earned for the time worked, and
 - ii. wages equal to the employee's regular rate for the remainder of the time.
2. Wages equal to the employee's regular rate for three hours of work.

Exception

(2) Subsection (1) does not apply if,

- (a) the employer required the employee to be on call for the purposes of ensuring the continued delivery of essential public services, regardless of who delivers those services; and
- (b) the employee who was on call was not required to work.

Limit

(3) Subsection (1) only requires an employer to pay an employee a minimum of three hours of pay during a twenty-four hour period beginning at the start of the first time during that period that the employee is on call, even if the employee is on call multiple times during those twenty-four hours.

Collective agreement prevails

(4) If a collective agreement that is in effect on January 1, 2019 contains a provision that addresses payment for being on call and there is a conflict between the provision of the collective agreement and this section, the provision of the collective agreement prevails.

Same, limit

(5) Subsection (4) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020.

Right to refuse

21.5 (1) An employee has the right to refuse an employer's request or demand to work or be on call on a day that they were not scheduled to work or be on call if the request or demand is made less than 96 hours before the time he or she would commence work or commence being on call, as applicable.

Exception

(2) Subsection (1) does not apply if the employer's request or demand to work or be on call is,

- (a) to deal with an emergency;
- (b) to remedy or reduce a threat to public safety;
- (c) to ensure the continued delivery of essential public services, regardless of who delivers those services; or
- (d) made for such other reasons as may be prescribed.

Notice to be provided

(3) An employee who refuses an employer's request or demand to work or be on call under subsection (1) shall notify the employer of the refusal as soon as possible.

Collective agreement prevails

(4) If a collective agreement that is in effect on January 1, 2019 contains a provision that addresses an employee's ability to refuse the employer's request or demand to perform work or be on call on a day the employee is not scheduled to work or be on call and there is a conflict between the provision of the collective agreement and this section, the provision of the collective agreement prevails.

Same, limit

(5) Subsection (4) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020.

Definition

(6) In this section,

"emergency" means,

- (a) a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise, or
- (b) a situation in which a search and rescue operation takes place.

Cancellation

21.6 (1) An employer shall pay an employee wages equal to the employee's regular rate for three hours of work if the employer cancels the employee's scheduled day of work or scheduled on call period within 48 hours before the time the employee was to commence work or commence being on call, as applicable.

Meaning of cancellation

(2) For the purposes of subsection (1), a scheduled day of work or scheduled on call period is cancelled if the entire day of work or on call period is cancelled but not if the day of work or on call period is shortened or extended.

Exception

(3) Subsection (1) does not apply if,

- (a) the employer is unable to provide work for the employee because of fire, lightning, power failure, storms or similar causes beyond the employer's control that result in the stopping of work;
- (b) the nature of the employee's work is weather-dependent and the employer is unable to provide work for the employee for weather-related reasons; or
- (c) the employer is unable to provide work for the employee for such other reasons as may be prescribed.

Collective agreement prevails

(4) If a collective agreement that is in effect on January 1, 2019 contains a provision that addresses payment when the employer cancels the employee's scheduled day of work or on call period and there is a conflict between the provision of the collective agreement and this section, the provision of the collective agreement prevails.

Same, limit

(5) Subsection (4) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020.

Limit

21.7 An employee's entitlement under this Part in respect of one scheduled day of work or scheduled on call period is limited to payment for three hours.

13 (1) Subsection 22 (1) of the Act is amended by adding "Subject to subsection (1.1)" at the beginning.

(2) Section 22 of the Act is amended by adding the following subsection:

Same, two or more regular rates

(1.1) If an employee has two or more regular rates for work performed for the same employer in a work week,

- (a) the employee is entitled to be paid overtime pay for each hour of work performed in the week after the total number of hours performed for the employer reaches the overtime threshold; and
- (b) the overtime pay for each hour referred to in clause (a) is one and one-half times the regular rate that applies to the work performed in that hour.

14 The Act is amended by adding the following section:

Change to minimum wage during pay period

23.0.1 If the minimum wage rate applicable to an employee changes during a pay period, the calculations required by subsection 23 (4) shall be performed as if the pay period were two separate pay periods, the first consisting of the part falling before the day on which the change takes effect and the second consisting of the part falling on and after the day on which the change takes effect.

15 (1) Subsection 23.1 (1) of the Act is repealed and the following substituted:

Determination of minimum wage

(1) The minimum wage is the following:

1. On or after January 1, 2018 but before January 1, 2019, the amount set out below for the following classes of employees:
 - i. For employees who are students under 18 years of age, if the student's weekly hours do not exceed 28 hours or if the student is employed during a school holiday, \$13.15 per hour.
 - ii. For employees who, as a regular part of their employment, serve liquor directly to customers, guests, members or patrons in premises for which a licence or permit has been issued under the *Liquor Licence Act* and who regularly receive tips or other gratuities from their work, \$12.20 per hour.
 - iii. For the services of hunting and fishing guides, \$70.00 for less than five consecutive hours in a day and \$140 for five or more hours in a day, whether or not the hours are consecutive.
 - iv. For employees who are homeworkers, \$15.40 per hour.
 - v. For any other employees not listed in subparagraphs i to iv, \$14.00 per hour.
2. On or after January 1, 2019 but before October 1, 2019, the amount set out below for the following classes of employees:
 - i. For employees who are students under 18 years of age, if the student's weekly hours do not exceed 28 hours or if the student is employed during a school holiday, \$14.10 per hour.
 - ii. For employees who, as a regular part of their employment, serve liquor directly to customers, guests, members or patrons in premises for which a licence or permit has been issued under the *Liquor Licence Act* and who regularly receive tips or other gratuities from their work, \$13.05 per hour.
 - iii. For the services of hunting and fishing guides, \$75.00 for less than five consecutive hours in a day and \$150 for five or more hours in a day, whether or not the hours are consecutive.
 - iv. For employees who are homeworkers, \$16.50 per hour.
 - v. For any other employees not listed in subparagraphs i to iv, \$15.00 per hour.
3. From October 1, 2019 onwards, the amount determined under subsection (4).

Student homeworker

(1.1) If an employee falls within both subparagraphs 1 i and iv of subsection (1) or both subparagraphs 2 i and iv of subsection (1), the employer shall pay the employee not less than the minimum wage for a homeworker.

(2) Subsection 23.1 (2) of the Act is amended by striking out "subparagraph 1 v of subsection (1)" in the portion before clause (a) and substituting "subparagraph 1 v or 2 v of subsection (1)".

(3) Subsection 23.1 (4) of the Act is amended by striking out the portion before the equation and substituting the following:

Annual adjustment

(4) On October 1 of each year starting in 2019, the minimum wage that applied to a class of employees immediately before October 1 shall be adjusted as follows:

(4) Subsection 23.1 (7) of the Act is amended by striking out “2014” and substituting “2018”.

(5) Subsection 23.1 (8) of the Act is repealed.

(6) Subsection 23.1 (10) of the Act is amended by striking out “2020” and substituting “2024”.

16 Subsection 24 (1) of the Act is repealed and the following substituted:

Public holiday pay

(1) An employee’s public holiday pay for a given public holiday shall be equal to,

- (a) the total amount of regular wages earned in the pay period immediately preceding the public holiday, divided by the number of days the employee worked in that period; or
- (b) if some other manner of calculation is prescribed, the amount determined using that manner of calculation.

Same, leave or vacation

(1.1) If an employee is on a leave under section 50, on vacation or both for the entire pay period immediately preceding the public holiday, the calculation in clause 24 (1) (a) shall be applied to the pay period before the start of that leave or vacation.

Same, no pay period before public holiday

(1.2) If the employee was not employed during the pay period immediately preceding a public holiday, the employee’s public holiday pay for the public holiday shall be equal to the amount of regular wages earned in the pay period that includes the public holiday divided by the number of days the employee worked in that period.

17 Section 27 of the Act is amended by adding the following subsection:

Substitute day of holiday

(2.1) If a day is substituted for a public holiday under clause (2) (a), the employer shall provide the employee with a written statement, before the public holiday, that sets out,

- (a) the public holiday on which the employee will work;
- (b) the date of the day that is substituted for a public holiday under clause (2) (a); and
- (c) the date on which the statement is provided to the employee.

18 Section 28 of the Act is amended by adding the following subsection:

Substitute day of holiday

(2.1) If a day is substituted for a public holiday under clause (2) (a), the employer shall provide the employee with a written statement, before the public holiday, that sets out,

- (a) the public holiday on which the employee will work;
- (b) the date of the day that is substituted for a public holiday under clause (2) (a); and
- (c) the date on which the statement is provided to the employee.

19 Section 29 of the Act is amended by adding the following subsection:

Substitute day of holiday

(1.1) If a day is substituted for a public holiday under subsection (1), the employer shall provide the employee with a written statement, before the public holiday, that sets out,

- (a) the public holiday that is being substituted;
- (b) the date of the day that is substituted for a public holiday under subsection (1); and
- (c) the date on which the statement is provided to the employee.

20 Section 30 of the Act is amended by adding the following subsection:

Substitute day of holiday

(2.1) If a day is substituted for a public holiday under clause (2) (a), the employer shall provide the employee with a written statement, before the public holiday, that sets out,

- (a) the public holiday on which the employee will work;
- (b) the date of the day that is substituted for a public holiday under clause (2) (a); and
- (c) the date on which the statement is provided to the employee.

21 Sections 33, 34 and 35 of the Act are repealed and the following substituted:

Right to vacation

33 (1) An employer shall give an employee a vacation of,

- (a) at least two weeks after each vacation entitlement year that the employee completes, if the employee's period of employment is less than five years; or
- (b) at least three weeks after each vacation entitlement year that the employee completes, if the employee's period of employment is five years or more.

Active and inactive employment

- (2) Both active employment and inactive employment shall be included for the purposes of subsection (1).

Where vacation not taken in complete weeks

- (3) If an employee does not take vacation in complete weeks, the employer shall base the number of days of vacation that the employee is entitled to,

- (a) on the number of days in the employee's regular work week; or
- (b) if the employee does not have a regular work week, on the average number of days the employee worked per week during the most recently completed vacation entitlement year.

Transition

- (4) Clause (1) (b) requires employers to provide employees with a period of employment of at least five years or more with at least three weeks of vacation after each vacation entitlement year that ends on or after December 31, 2017 but does not require them to provide additional vacation days in respect of vacation entitlement years that ended before that time.

Alternative vacation entitlement year

Application

- 34 (1)** This section applies if the employer establishes an alternative vacation entitlement year for an employee.

Vacation for stub period, less than five years of employment

- (2) If the employee's period of employment is less than five years, the employer shall do the following with respect to the stub period:

1. The employer shall calculate the ratio between the stub period and 12 months.
2. If the employee has a regular work week, the employer shall give the employee a vacation for the stub period that is equal to two weeks multiplied by the ratio calculated under paragraph 1.
3. If the employee does not have a regular work week, the employer shall give the employee a vacation for the stub period that is equal to,

$$2 \times A \times \text{the ratio calculated under paragraph 1}$$

where,

A = the average number of days the employee worked per work week in the stub period.

Vacation for stub period, five years or more of employment

- (3) If the employee's period of employment is five years or more, the employer shall do the following with respect to the stub period:

1. The employer shall calculate the ratio between the stub period and 12 months.
2. If the employee has a regular work week, the employer shall give the employee a vacation for the stub period that is equal to three weeks multiplied by the ratio calculated under paragraph 1.
3. If the employee does not have a regular work week, the employer shall give the employee a vacation for the stub period that is equal to,

$$3 \times A \times \text{the ratio calculated under paragraph 1}$$

where,

A= the average number of days the employee worked per work week in the stub period.

Active and inactive employment

(4) Both active employment and inactive employment shall be included for the purposes of subsections (2) and (3).

Transition

(5) Subsection (3) requires employers to provide employees with a period of employment of at least five years or more with vacation calculated in accordance with that subsection for any stub period that ends on or after December 31, 2017 but does not require them to provide additional vacation days in respect of a stub period that ended before that time.

Timing of vacation

35 The employer shall determine when an employee shall take vacation for a vacation entitlement year, subject to the following rules:

1. The vacation must be completed no later than 10 months after the end of the vacation entitlement year for which it is given.
2. If the employee's period of employment is less than five years, the vacation must be a two-week period or two periods of one week each, unless the employee requests in writing that the vacation be taken in shorter periods and the employer agrees to that request.
3. If the employee's period of employment is five years or more, the vacation must be a three-week period or a two-week period and a one-week period or three periods of one week each, unless the employee requests in writing that the vacation be taken in shorter periods and the employer agrees to that request.

22 Subsection 35.1 (1) of the Act is repealed and the following substituted:

Timing of vacation, alternative vacation entitlement year

(1) This section applies if an employer establishes an alternative vacation entitlement year for an employee.

23 Section 35.2 of the Act is repealed and the following substituted:

Vacation pay

35.2 An employer shall pay vacation pay to an employee who is entitled to vacation under section 33 or 34, equal to at least,

- (a) 4 per cent of the wages, excluding vacation pay, that the employee earned during the period for which the vacation is given, if the employee's period of employment is less than five years; or
- (b) 6 per cent of the wages, excluding vacation pay, that the employee earned during the period for which the vacation is given, if the employee's period of employment is five years or more.

24 Subsection 41.1 (6) of the Act is repealed.

25 Part XII of the Act is amended by adding the following section:

Interpretation

41.2 In this Part,

“substantially the same” means substantially the same but not necessarily identical.

26 (1) Clause 42 (2) (d) of the Act is amended by adding “or employment status” at the end.

(2) The French version of subsection 42 (4) of the Act is amended by striking out “doit faire” and substituting “ne doit faire”.

(3) Section 42 of the Act is amended by adding the following subsection:

Written response

(6) An employee who believes that their rate of pay does not comply with subsection (1) may request a review of their rate of pay from the employee's employer, and the employer shall,

- (a) adjust the employee's pay accordingly; or
- (b) if the employer disagrees with the employee's belief, provide a written response to the employee setting out the reasons for the disagreement.

27 Part XII of the Act is amended by adding the following section:

Difference in employment status

42.1 (1) No employer shall pay an employee at a rate of pay less than the rate paid to another employee of the employer because of a difference in employment status when,

- (a) they perform substantially the same kind of work in the same establishment;
- (b) their performance requires substantially the same skill, effort and responsibility; and
- (c) their work is performed under similar working conditions.

Exception

- (2) Subsection (1) does not apply when the difference in the rate of pay is made on the basis of,
- (a) a seniority system;
 - (b) a merit system;
 - (c) a system that measures earnings by quantity or quality of production; or
 - (d) any other factor other than sex or employment status.

Reduction prohibited

- (3) No employer shall reduce the rate of pay of an employee in order to comply with subsection (1).

Organizations

- (4) No trade union or other organization shall cause or attempt to cause an employer to contravene subsection (1).

Deemed wages

- (5) If an employment standards officer finds that an employer has contravened subsection (1), the officer may determine the amount owing to an employee as a result of the contravention and that amount shall be deemed to be unpaid wages for that employee.

Written response

- (6) An employee who believes that their rate of pay does not comply with subsection (1) may request a review of their rate of pay from the employee's employer, and the employer shall,
- (a) adjust the employee's pay accordingly; or
 - (b) if the employer disagrees with the employee's belief, provide a written response to the employee setting out the reasons for the disagreement.

Transition, collective agreement

- (7) If a collective agreement that is in effect on April 1, 2018 contains a provision that permits differences in pay based on employment status and there is a conflict between the provision of the collective agreement and subsection (1), the provision of the collective agreement prevails.

Same, limit

- (8) Subsection (7) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020.

28 Part XII of the Act is amended by adding the following section:**Difference in assignment employee status**

- 42.2** (1) No temporary help agency shall pay an assignment employee who is assigned to perform work for a client at a rate of pay less than the rate paid to an employee of the client when,
- (a) they perform substantially the same kind of work in the same establishment;
 - (b) their performance requires substantially the same skill, effort and responsibility; and
 - (c) their work is performed under similar working conditions.

Exception

- (2) Subsection (1) does not apply when the difference in the rate of pay is made on the basis of any factor other than sex, employment status or assignment employee status.

Reduction prohibited

- (3) No client of a temporary help agency shall reduce the rate of pay of an employee in order to assist a temporary help agency in complying with subsection (1).

Organizations

- (4) No trade union or other organization shall cause or attempt to cause a temporary help agency to contravene subsection (1).

Deemed wages

(5) If an employment standards officer finds that a temporary help agency has contravened subsection (1), the officer may determine the amount owing to an assignment employee as a result of the contravention and that amount shall be deemed to be unpaid wages for that assignment employee.

Written response

(6) An assignment employee who believes that their rate of pay does not comply with subsection (1) may request a review of their rate of pay from the temporary help agency, and the temporary help agency shall,

- (a) adjust the assignment employee's pay accordingly; or
- (b) if the temporary help agency disagrees with the assignment employee's belief, provide a written response to the assignment employee setting out the reasons for the disagreement.

Transition, collective agreement

(7) If a collective agreement that is in effect on April 1, 2018 contains a provision that permits differences in pay between employees of a client and an assignment employee and there is a conflict between the provision of the collective agreement and subsection (1), the provision of the collective agreement prevails.

Same, limit

(8) Subsection (7) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020.

29 Part XII of the Act is amended by adding the following section:**Review**

42.3 (1) Before April 1, 2021, the Minister shall cause a review of sections 42.1 and 42.2 to be commenced.

Same

(2) The Minister may specify a date by which a review under subsection (1) must be completed.

30 The Act is amended by adding the following section:**Definition**

46.1 In section 46,

“legally qualified medical practitioner” means,

- (a) a person who is qualified to practice as a physician,
- (b) a person who is qualified to practice as a midwife,
- (c) a registered nurse who holds an extended certificate of registration under the *Nursing Act, 1991*, or
- (d) in the prescribed circumstances, a member of a prescribed class of medical practitioners. (“médecin dûment qualifié”)

31 (1) Subclause 47 (1) (b) (ii) of the Act is amended by striking out “six weeks” and substituting “12 weeks”.

(2) Section 47 of the Act is amended by adding the following subsection:

Transition

(1.1) Despite clause (1) (b), if an employee who is not entitled to parental leave began her pregnancy leave before January 1, 2018, her pregnancy leave ends on the day that is the later of,

- (a) 17 weeks after the pregnancy leave began; and
- (b) six weeks after the birth, still-birth or miscarriage.

32 (1) Subsection 48 (2) of the Act is amended by striking out “52 weeks” and substituting “78 weeks”.

(2) Section 48 of the Act is amended by adding the following subsection:

Transition

(2.1) Despite subsection (2), an employee may begin parental leave no later than 52 weeks after the day the child is born or comes into the employee's custody, care and control for the first time if that day was before the day subsection 32 (2) of Schedule 1 to the *Fair Workplaces, Better Jobs Act, 2017* came into force.

33 (1) Subsection 49 (1) of the Act is amended by striking out “35 weeks” and substituting “61 weeks” and by striking out “37 weeks” and substituting “63 weeks”.

(2) Section 49 of the Act is amended by adding the following subsection:

Transition

(1.1) Despite subsection (1), if the child in respect of whom the employee takes parental leave was born or came into the employee's custody, care and control for the first time before the day subsection 33 (2) of Schedule 1 to the *Fair Workplaces, Better Jobs Act, 2017* came into force, the employee's parental leave ends,

- (a) 35 weeks after it began, if the employee also took pregnancy leave; and
- (b) 37 weeks after it began, otherwise.

34 (1) The definition of "qualified health practitioner" in subsection 49.1 (1) of the Act is repealed and the following substituted:

"qualified health practitioner" means,

- (a) a person who is qualified to practise as a physician under the laws of the jurisdiction in which care or treatment is provided to the individual described in subsection (3),
- (b) a registered nurse who holds an extended certificate of registration under the *Nursing Act, 1991* or an individual who has an equivalent qualification under the laws of the jurisdiction in which care or treatment is provided to the individual described in subsection (3), or
- (c) in the prescribed circumstances, a member of a prescribed class of health practitioners: ("praticien de la santé qualifié")

(2) Subsections 49.1 (2) and (3) of the Act are repealed and the following substituted:

Entitlement to leave

(2) An employee is entitled to a leave of absence without pay of up to 28 weeks to provide care or support to an individual described in subsection (3) if a qualified health practitioner issues a certificate stating that the individual has a serious medical condition with a significant risk of death occurring within a period of 26 weeks or such shorter period as may be prescribed.

Application of subs. (2)

(3) Subsection (2) applies in respect of the following individuals:

1. The employee's spouse.
2. A parent, step-parent or foster parent of the employee or the employee's spouse.
3. A child, step-child or foster child of the employee or the employee's spouse.
4. A child who is under legal guardianship of the employee or the employee's spouse.
5. A brother, step-brother, sister or step-sister of the employee.
6. A grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee's spouse.
7. A brother-in-law, step-brother-in-law, sister-in-law or step-sister-in-law of the employee.
8. A son-in-law or daughter-in-law of the employee or the employee's spouse.
9. An uncle or aunt of the employee or the employee's spouse.
10. A nephew or niece of the employee or the employee's spouse.
11. The spouse of the employee's grandchild, uncle, aunt, nephew or niece.
12. A person who considers the employee to be like a family member, provided the prescribed conditions, if any, are met.
13. Any individual prescribed as a family member for the purposes of this section.

(3) Subsections 49.1 (5) and (6) of the Act are repealed and the following substituted:

Latest date employee can remain on leave

(5) The employee may not remain on a leave under this section after the earlier of the following dates:

1. The last day of the week in which the individual described in subsection (3) dies.
2. The last day of the 52-week period starting on the first day of the week in which the period referred to in subsection (2) begins.

Same

(5.1) For greater certainty, but subject to subsection (5), if the amount of leave that has been taken is less than 28 weeks it is not necessary for a qualified health practitioner to issue an additional certificate under subsection (2) in order for leave to be taken under this section after the end of the period referred to in subsection (2).

Two or more employees

(6) If two or more employees take leaves under this section in respect of a particular individual, the total of the leaves taken by all the employees shall not exceed 28 weeks during the 52-week period referred to in paragraph 2 of subsection (5) that applies to the first certificate issued for the purpose of this section.

(4) Subsections 49.1 (11) and (12) of the Act are repealed and the following substituted:

Further leave

(11) If an employee takes a leave under this section and the individual referred to in subsection (3) does not die within the 52-week period referred to in paragraph 2 of subsection (5), the employee may, in accordance with this section, take another leave and, for that purpose, the reference in subsection (6) to “the first certificate” shall be deemed to be a reference to the first certificate issued after the end of that period.

Leave under ss. 49.3, 49.4, 49.5, 49.6, 49.7 and 50

(12) An employee’s entitlement to leave under this section is in addition to any entitlement to leave under sections 49.3, 49.4, 49.5, 49.6, 49.7 and 50.

Transition

(13) If a certificate described in subsection (2) was issued before January 1, 2018, then this section, as it read immediately before January 1, 2018, applies.

35 (1) Section 49.3 of the Act is amended by adding the following subsection:

Leave deemed to be taken in entire weeks

(7.1) For the purposes of an employee’s entitlement under subsection (4), if an employee takes any part of a week as leave, the employer may deem the employee to have taken one week of leave.

(2) Subsection 49.3 (9) of the Act is amended “by striking out “49.5 and 50” and substituting “49.5, 49.6, 49.7 and 50”.

36 The heading immediately before section 49.4 and section 49.4 of the Act are repealed and the following substituted:

CRITICAL ILLNESS LEAVE

Critical illness leave

Definitions

49.4 (1) In this section,

“adult” means an individual who is 18 years or older; (“adulte”)

“critically ill”, with respect to a minor child or adult, means a minor child or adult whose baseline state of health has significantly changed and whose life is at risk as a result of an illness or injury; (“gravement malade”)

“family member”, with respect to an employee, means the following:

1. The employee’s spouse.
2. A parent, step-parent or foster parent of the employee or the employee’s spouse.
3. A child, step-child or foster child of the employee or the employee’s spouse.
4. A child who is under legal guardianship of the employee or the employee’s spouse.
5. A brother, step-brother, sister or step-sister of the employee.
6. A grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee’s spouse.
7. A brother-in-law, step-brother-in-law, sister-in-law or step-sister-in-law of the employee.
8. A son-in-law or daughter-in-law of the employee or the employee’s spouse.
9. An uncle or aunt of the employee or the employee’s spouse.
10. A nephew or niece of the employee or the employee’s spouse.
11. The spouse of the employee’s grandchild, uncle, aunt, nephew or niece.
12. A person who considers the employee to be like a family member, provided the prescribed conditions, if any, are met.
13. Any individual prescribed as a family member for the purpose of this definition; (“membre de la famille”)

“minor child” means an individual who is under 18 years of age; (“enfant mineur”)

“qualified health practitioner” means,

- (a) a person who is qualified to practise as a physician, a registered nurse or a psychologist under the laws of the jurisdiction in which care or treatment is provided to the individual described in subsection (2) or (5), or
- (b) in the prescribed circumstances, a member of a prescribed class of health practitioners: (“praticien de la santé qualifié”)

“week” means a period of seven consecutive days beginning on Sunday and ending on Saturday. (“semaine”)

Entitlement to leave — critically ill minor child

(2) An employee who has been employed by his or her employer for at least six consecutive months is entitled to a leave of absence without pay to provide care or support to a critically ill minor child who is a family member of the employee if a qualified health practitioner issues a certificate that,

- (a) states that the minor child is a critically ill minor child who requires the care or support of one or more family members; and
- (b) sets out the period during which the minor child requires the care or support.

Same

(3) Subject to subsection (4), an employee is entitled to take up to 37 weeks of leave under this section to provide care or support to a critically ill minor child.

Same — period less than 37 weeks

(4) If the certificate described in subsection (2) sets out a period of less than 37 weeks, the employee is entitled to take a leave only for the number of weeks in the period specified in the certificate.

Entitlement to leave — critically ill adult

(5) An employee who has been employed by his or her employer for at least six consecutive months is entitled to a leave of absence without pay to provide care or support to a critically ill adult who is a family member of the employee if a qualified health practitioner issues a certificate that,

- (a) states that the adult is a critically ill adult who requires the care or support of one or more family members; and
- (b) sets out the period during which the adult requires the care or support.

Same

(6) Subject to subsection (7), an employee is entitled to take up to 17 weeks of leave under this section to provide care or support to a critically ill adult.

Same — period less than 17 weeks

(7) If the certificate described in subsection (5) sets out a period of less than 17 weeks, the employee is entitled to take a leave only for the number of weeks in the period specified in the certificate.

When leave must end

(8) Subject to subsection (9), a leave under this section ends no later than the last day of the period specified in the certificate described in subsection (2) or (5).

Limitation period

(9) If the period specified in the certificate described in subsection (2) or (5) is 52 weeks or longer, the leave ends no later than the last day of the 52-week period that begins on the earlier of,

- (a) the first day of the week in which the certificate is issued; and
- (b) the first day of the week in which the minor child or adult in respect of whom the certificate was issued became critically ill.

Death of minor child or adult

(10) If a critically ill minor child or adult dies while an employee is on a leave under this section, the employee's entitlement to be on leave under this section ends on the last day of the week in which the minor child or adult dies.

Total amount of leave — critically ill minor child

(11) The total amount of leave that may be taken by one or more employees under this section in respect of the same critically ill minor child is 37 weeks.

Total amount of leave — critically ill adult

(12) The total amount of leave that may be taken by one or more employees under this section in respect of the same critically ill adult is 17 weeks.

Limitation where child turns 18

(13) If an employee takes leave in respect of a critically ill minor child under subsection (2), the employee may not take leave in respect of the same individual under subsection (5) before the 52-week period described in subsection (9) expires.

Further leave — critically ill minor child

(14) If a minor child in respect of whom an employee has taken a leave under this section remains critically ill while the employee is on leave or after the employee returns to work, but before the 52-week period described in subsection (9) expires, the employee is entitled to take an extension of the leave or a new leave if,

- (a) a qualified health practitioner issues an additional certificate described in subsection (2) for the minor child that sets out a different period during which the minor child requires care or support;
- (b) the amount of leave that has been taken and the amount of leave the employee takes under this subsection does not exceed 37 weeks in total; and
- (c) the leave ends no later than the last day of the 52-week period described in subsection (9).

Further leave — critically ill adult

(15) If an adult in respect of whom an employee has taken a leave under this section remains critically ill while the employee is on leave or after the employee returns to work, but before the 52-week period described in subsection (9) expires, the employee is entitled to take an extension of the leave or a new leave if,

- (a) a qualified health practitioner issues an additional certificate described in subsection (5) for the adult that sets out a different period during which the adult requires care or support;
- (b) the amount of leave that has been taken and the amount of leave the employee takes under this subsection does not exceed 17 weeks in total; and
- (c) the leave ends no later than the last day of the 52-week period described in subsection (9).

Additional leaves

(16) If a minor child or adult in respect of whom an employee has taken a leave under this section remains critically ill after the 52-week period described in subsection (9) expires, the employee is entitled to take another leave and the requirements of this section apply to the new leave.

Advising employer

(17) An employee who wishes to take a leave under this section shall advise his or her employer in writing that he or she will be doing so and shall provide the employer with a written plan that indicates the weeks in which he or she will take the leave.

Same

(18) If an employee must begin a leave under this section before advising the employer, the employee shall advise the employer of the leave in writing as soon as possible after beginning it and shall provide the employer with a written plan that indicates the weeks in which he or she will take the leave.

Same — change in employees plan

(19) An employee may take a leave at a time other than that indicated in the plan provided under subsection (17) or (18) if the change to the time of the leave meets the requirements of this section and,

- (a) the employee requests permission from the employer to do so in writing and the employer grants permission in writing; or
- (b) the employee provides the employer with such written notice of the change as is reasonable in the circumstances.

Copy of certificate

(20) If requested by the employer, the employee shall provide the employer with a copy of the certificate referred to in subsection (2) or (5) or clause (14) (a) or (15) (a) as soon as possible.

Leave under ss. 49.1, 49.3, 49.5, 49.6, 49.7 and 50

(21) An employee's entitlement to leave under this section is in addition to any entitlement to leave under sections 49.1, 49.3, 49.5, 49.6, 49.7 and 50.

Transition

(22) If a certificate mentioned in subsection (2) or (12), as those subsections read immediately before the day section 36 of Schedule 1 to the *Fair Workplaces, Better Jobs Act, 2017* came into force, was issued before that day, then this section, as it read immediately before that day, applies.

37 The heading immediately before section 49.5 of the Act is struck out and the following substituted:

CHILD DEATH LEAVE

38 Section 49.5 of the Act is repealed and the following substituted:

Child death leave

Definitions

49.5 (1) In this section,

“child” means a child, step-child, foster child or child who is under legal guardianship, and who is under 18 years of age; (“enfant”)

“crime” means an offence under the *Criminal Code* (Canada), other than an offence prescribed by the regulations made under paragraph 209.4 (f) of the *Canada Labour Code* (Canada); (“acte criminel”)

“week” means a period of seven consecutive days beginning on Sunday and ending on Saturday. (“semaine”)

Entitlement to leave

(2) An employee who has been employed by an employer for at least six consecutive months is entitled to a leave of absence without pay of up to 104 weeks if a child of the employee dies.

Exception

(3) An employee is not entitled to a leave of absence under this section if the employee is charged with a crime in relation to the death of the child or if it is probable, considering the circumstances, that the child was a party to a crime in relation to his or her death.

Single period

(4) An employee may take a leave under this section only in a single period.

Limitation period

(5) An employee may take a leave under this section only during the 105-week period that begins in the week the child dies.

Total amount of leave

(6) The total amount of leave that may be taken by one or more employees under this section in respect of a death, or deaths that are the result of the same event, is 104 weeks.

Advising employer

(7) An employee who wishes to take a leave under this section shall advise the employer in writing and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

Same

(8) If an employee must begin a leave under this section before advising the employer, the employee shall advise the employer of the leave in writing as soon as possible after beginning it and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

Same — change in employee’s plan

(9) An employee may take a leave at a time other than that indicated in the plan provided under subsection (7) or (8) if the change to the time of the leave meets the requirements of this section and,

(a) the employee requests permission from the employer to do so in writing and the employer grants permission in writing; or

(b) the employee provides the employer with four weeks written notice before the change is to take place.

Evidence

(10) An employer may require an employee who takes a leave under this section to provide evidence reasonable in the circumstances of the employee’s entitlement to the leave.

Leave under ss. 49.1, 49.3, 49.4, 49.6, 49.7 and 50

(11) An employee’s entitlement to leave under this section is in addition to any entitlement to leave under sections 49.1, 49.3, 49.4, 49.6, 49.7 and 50.

Transition

(12) If, on December 31, 2017, an employee was on a crime-related child death or disappearance leave under this section, as it read on that date, then the employee’s entitlement to the leave continues in accordance with this section as it read on that date.

CRIME-RELATED CHILD DISAPPEARANCE LEAVE

Crime-related child disappearance leave**Definitions**

49.6 (1) In this section,

“child” means a child, step-child, foster child or child who is under legal guardianship, and who is under 18 years of age; (“enfant”)

“crime” means an offence under the *Criminal Code* (Canada), other than an offence prescribed by the regulations made under paragraph 209.4 (f) of the *Canada Labour Code* (Canada); (“acte criminel”)

“week” means a period of seven consecutive days beginning on Sunday and ending on Saturday. (“semaine”)

Entitlement to leave

(2) An employee who has been employed by an employer for at least six consecutive months is entitled to a leave of absence without pay of up to 104 weeks if a child of the employee disappears and it is probable, considering the circumstances, that the child disappeared as a result of a crime.

Transition

(3) Despite subsection (2), if the disappearance occurred before January 1, 2018, the employee is entitled to a leave of absence without pay in accordance with section 49.5 as it read on December 31, 2017.

Exception

(4) An employee is not entitled to a leave of absence under this section if the employee is charged with the crime or if it is probable, considering the circumstances, that the child was a party to the crime.

Change in circumstance

(5) If an employee takes a leave of absence under this section and the circumstances that made it probable that the child of the employee disappeared as a result of a crime change and it no longer seems probable that the child disappeared as a result of a crime, the employee's entitlement to leave ends on the day on which it no longer seems probable.

Child found

(6) The following rules apply if an employee takes a leave of absence under this section and the child is found within the 104-week period that begins in the week the child disappears:

1. If the child is found alive, the employee is entitled to remain on leave under this section for 14 days after the child is found.
2. If the child is found dead, the employee's entitlement to be on leave under this section ends at the end of the week in which the child is found.

Same

(7) For greater certainty, nothing in paragraph 2 of subsection (6) affects the employee's eligibility for child death leave under section 49.5.

Single period

(8) An employee may take a leave under this section only in a single period.

Limitation period

(9) Except as otherwise provided for in subsection (8), an employee may take a leave under this section only during the 105-week period that begins in the week the child disappears.

Total amount of leave

(10) The total amount of leave that may be taken by one or more employees under this section in respect of a disappearance, or disappearances that are the result of the same event, is 104 weeks.

Advising employer

(11) An employee who wishes to take a leave under this section shall advise the employer in writing and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

Same

(12) If an employee must begin a leave under this section before advising the employer, the employee shall advise the employer of the leave in writing as soon as possible after beginning it and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

Same — change in employee's plan

(13) An employee may take a leave at a time other than that indicated in the plan provided under subsection (11) or (12) if the change to the time of the leave meets the requirements of this section and,

- (a) the employee requests permission from the employer to do so in writing and the employer grants permission in writing; or
- (b) the employee provides the employer with four weeks written notice before the change is to take place.

Evidence

(14) An employer may require an employee who takes a leave under this section to provide evidence reasonable in the circumstances of the employee's entitlement to the leave.

Leave under ss. 49.1, 49.3, 49.4, 49.5, 49.7 and 50

(15) An employee's entitlement to leave under this section is in addition to any entitlement to leave under sections 49.1, 49.3, 49.4, 49.5, 49.7 and 50.

DOMESTIC OR SEXUAL VIOLENCE LEAVE**Domestic or sexual violence leave****Definitions**

49.7 (1) In this section,

"child" means a child, step-child, foster child or child who is under legal guardianship, and who is under 18 years of age; ("enfant")

"week" means a period of seven consecutive days beginning on Sunday and ending on Saturday. ("semaine")

Entitlement to leave

(2) An employee who has been employed by an employer for at least 13 consecutive weeks is entitled to a leave of absence if the employee or a child of the employee experiences domestic or sexual violence, or the threat of domestic or sexual violence, and the leave of absence is taken for any of the following purposes:

1. To seek medical attention for the employee or the child of the employee in respect of a physical or psychological injury or disability caused by the domestic or sexual violence.
2. To obtain services from a victim services organization for the employee or the child of the employee.
3. To obtain psychological or other professional counselling for the employee or the child of the employee.
4. To relocate temporarily or permanently.
5. To seek legal or law enforcement assistance, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic or sexual violence.
6. Such other purposes as may be prescribed.

Exception

(3) Subsection (2) does not apply if the domestic or sexual violence is committed by the employee.

Length of leave

(4) An employee is entitled to take, in each calendar year,

- (a) up to 10 days of leave under this section; and
- (b) up to 15 weeks of leave under this section.

Entitlement to paid leave

(5) If an employee takes a leave under this section, the employee is entitled to take the first five such days as paid days of leave in each calendar year and the balance of his or her entitlement under this section as unpaid leave.

Domestic or sexual violence leave pay

(6) Subject to subsections (7) and (8), if an employee takes a paid day of leave under this section, the employer shall pay the employee,

- (a) either,
 - (i) the wages the employee would have earned had they not taken the leave, or

- (ii) if the employee receives performance-related wages, including commissions or a piece work rate, the greater of the employee's hourly rate, if any, and the minimum wage that would have applied to the employee for the number of hours the employee would have worked had they not taken the leave; or

(b) if some other manner of calculation is prescribed, the amount determined using that manner of calculation.

Domestic or sexual violence leave where higher rate of wages

(7) If a paid day of leave under this section falls on a day or at a time of day when overtime pay, a shift premium, or both would be payable by the employer,

- (a) the employee is not entitled to more than his or her regular rate for any leave taken under this section; and
- (b) the employee is not entitled to the shift premium for any leave taken under this section.

Domestic or sexual violence leave on public holiday

(8) If a paid day of leave under this section falls on a public holiday, the employee is not entitled to premium pay for any leave taken under this section.

Leave deemed to be taken in entire days

(9) For the purposes of an employee's entitlement under clause (4) (a), if an employee takes any part of a day as leave, the employer may deem the employee to have taken one day of leave on that day.

Advising employer

(10) An employee who wishes to take leave under clause (4) (a) shall advise the employer that the employee will be doing so.

Same

(11) If an employee must begin a leave under clause (4) (a) before advising the employer, the employee shall advise the employer of the leave as soon as possible after beginning it.

Leave deemed to be taken in entire weeks

(12) For the purposes of an employee's entitlement under clause (4) (b), if an employee takes any part of a week as leave, the employer may deem the employee to have taken one week of leave.

Advising employer

(13) An employee who wishes to take a leave under clause (4) (b) shall advise the employer in writing that the employee will be doing so.

Same

(14) If an employee must begin a leave under clause (4) (b) before advising the employer, the employee shall advise the employer of the leave in writing as soon as possible after beginning it.

Evidence

(15) An employer may require an employee who takes a leave under this section to provide evidence reasonable in the circumstances of the employee's entitlement to the leave.

Leave under ss. 49.1, 49.3, 49.4, 49.5, 49.6 and 50

(16) An employee's entitlement to leave under this section is in addition to any entitlement to leave under sections 49.1, 49.3, 49.4, 49.5, 49.6 and 50.

Confidentiality

(17) An employer shall ensure that mechanisms are in place to protect the confidentiality of records given to or produced by the employer that relate to an employee taking a leave under this section.

Disclosure permitted

(18) Nothing in subsection (17) prevents an employer from disclosing a record where,

- (a) the employee has consented to the disclosure of the record;
- (b) disclosure is made to an officer, employee, consultant or agent of the employer who needs the record in the performance of their duties;
- (c) the disclosure is authorized or required by law; or
- (d) the disclosure is prescribed as a permitted disclosure.

39 (1) Section 50 of the Act is amended by adding the following subsection:

Definition

(0.1) In this section,

“qualified health practitioner” means,

- (a) a person who is qualified to practise as a physician, a registered nurse or a psychologist under the laws of the jurisdiction in which care or treatment is provided to the employee or to an individual described in subsection (2), or
- (b) in the prescribed circumstances, a member of a prescribed class of health practitioners.

(2) Subsection 50 (1) of the Act is repealed and the following substituted:

Personal emergency leave

(1) An employee is entitled to a leave of absence because of any of the following:

1. A personal illness, injury or medical emergency.
2. The death, illness, injury or medical emergency of an individual described in subsection (2).
3. An urgent matter that concerns an individual described in subsection (2).

(3) Subsections 50 (5), (6) and (7) of the Act are repealed and the following substituted:

Limit

(5) Subject to subsection (6), an employee is entitled to take a total of two days of paid leave and eight days of unpaid leave under this section in each calendar year.

Same, entitlement to paid leave

(6) If an employee has been employed by an employer for less than one week, the following rules apply:

1. The employee is not entitled to paid days of leave under this section.
2. Once the employee has been employed by the employer for one week or longer, the employee is entitled to paid days of leave under subsection (5), and any unpaid days of leave that the employee has already taken in the calendar year shall be counted against the employee's entitlement under that subsection.
3. Subsection (8) does not apply until the employee has been employed by the employer for one week or longer.

Leave deemed to be taken in entire days

(7) If an employee takes any part of a day as paid or unpaid leave under this section, the employer may deem the employee to have taken one day of paid or unpaid leave on that day, as applicable, for the purposes of subsection (5) or (6).

Paid days first

(8) The two paid days must be taken first in a calendar year before any of the unpaid days can be taken under this section.

Personal emergency leave pay

(9) Subject to subsections (10) and (11), if an employee takes a paid day of leave under this section, the employer shall pay the employee,

- (a) either,
 - (i) the wages the employee would have earned had they not taken the leave, or
 - (ii) if the employee receives performance-related wages, including commissions or a piece work rate, the greater of the employee's hourly rate, if any, and the minimum wage that would have applied to the employee for the number of hours the employee would have worked had they not taken the leave; or
- (b) if some other manner of calculation is prescribed, the amount determined using that manner of calculation.

Personal emergency leave where higher rate of wages

(10) If a paid day of leave under this section falls on a day or at a time of day when overtime pay, a shift premium or both would be payable by the employer,

- (a) the employee is not entitled to more than his or her regular rate for any leave taken under this section; and
- (b) the employee is not entitled to the shift premium for any leave taken under this section.

Personal emergency leave on public holiday

(11) If a paid day of leave under this section falls on a public holiday, the employee is not entitled to premium pay for any leave taken under this section.

Evidence

(12) Subject to subsection (13), an employer may require an employee who takes leave under this section to provide evidence reasonable in the circumstances that the employee is entitled to the leave.

Same

(13) An employer shall not require an employee to provide a certificate from a qualified health practitioner as evidence under subsection (12).

40 The French version of subsection 73 (3) of the Act is amended by striking out “son poste” and substituting “son quart”.

41 Clause 74 (1) (a) of the Act is amended by adding the following subclauses:

- (v.1) makes inquiries about the rate paid to another employee for the purpose of determining or assisting another person in determining whether an employer is complying with Part XII (Equal Pay for Equal Work),
- (v.2) discloses the employee's rate of pay to another employee for the purpose of determining or assisting another person in determining whether an employer is complying with Part XII (Equal Pay for Equal Work),

42 Section 74.1 of the Act is repealed.

43 Subsection 74.4.1 (1) of the Act is repealed and the following substituted:

Agency to keep records re: work for client, termination

(1) In addition to the information that an employer is required to record under Part VI, a temporary help agency shall.

- (a) record the number of hours worked by each assignment employee for each client of the agency in each day and each week; and
- (b) retain a copy of any written notice provided to an assignment employee under subsection 74.10.1 (1).

44 The Act is amended by adding the following section:

Termination of assignment

74.10.1 (1) A temporary help agency shall provide an assignment employee with one week's written notice or pay in lieu of notice if,

- (a) the assignment employee is assigned to perform work for a client;
- (b) the assignment had an estimated term of three months or more at the time it was offered to the employee; and
- (c) the assignment is terminated before the end of its estimated term.

Amount of pay in lieu

(2) For the purposes of subsection (1), the amount of the pay in lieu of notice shall be equal to the wages the assignment employee would have been entitled to receive had one week's notice been given in accordance with that subsection.

Exception

(3) Subsection (1) does not apply if the temporary help agency offers the assignment employee a work assignment with a client during the notice period that is reasonable in the circumstances and that has an estimated term of one week or more.

Same

(4) Subsection (1) does not apply if,

- (a) the assignment employee has been guilty of wilful misconduct, disobedience or wilful neglect of duty that is not trivial and has not been condoned by the temporary help agency or the client;
- (b) the assignment has become impossible to perform or has been frustrated by a fortuitous or unforeseeable event or circumstance; or
- (c) the assignment is terminated during or as a result of a strike or lock-out at the location of the assignment.

45 Clause 74.12 (1) (a) of the Act is amended by adding the following subclauses:

- (v.1) makes inquiries about the rate paid to an employee of the client for the purpose of determining or assisting another person in determining whether a temporary help agency is complying with Part XII (Equal Pay for Equal Work),
- (v.2) discloses the assignment employee's rate of pay to an employee of the client for the purpose of determining or assisting another person in determining whether a temporary help agency is complying with Part XII (Equal Pay for Equal Work),

- (v.3) discloses the rate paid to an employee of the client to the assignment employee's temporary help agency for the purposes of determining or assisting another person in determining whether a temporary help agency is complying with Part XII (Equal Pay for Equal Work),

46 Section 74.12.1 of the Act is repealed.

47 Subsection 74.14 (1) of the Act is amended by striking out "or" at the end of clause (a) and by adding the following clause:

- (a.1) order the agency to repay the amount of the fee to the assignment employee or prospective assignment employee; or

48 Subsection 74.16 (2) of the Act is repealed and the following substituted:

Terms of orders

- (2) If an order issued under this section requires a temporary help agency to compensate an assignment employee or prospective assignment employee, it shall also require the agency to,

- (a) pay to the Director in trust,
 - (i) the amount of the compensation, and
 - (ii) an amount for administration costs equal to the greater of \$100 and 10 per cent of the amount of compensation; or
- (b) pay the amount of the compensation to the assignment employee or prospective assignment employee.

49 Subsection 74.17 (2) of the Act is repealed and the following substituted:

Terms of orders

- (2) If an order issued under this section requires the client to compensate an assignment employee, it shall also require the client to,

- (a) pay to the Director in trust,
 - (i) the amount of the compensation, and
 - (ii) an amount for administration costs equal to the greater of \$100 and 10 per cent of the amount of compensation; or
- (b) pay the amount of the compensation to the assignment employee.

50 Subsection 81 (8) of the Act is repealed.

51 Subsection 88 (5) of the Act is repealed and the following substituted:

Interest

- (5) The Director may, with the approval of the Minister, determine the rates of interest and the manner of calculating interest for,

- (a) amounts owing under different provisions of this Act or the regulations, and
- (b) money held by the Director in trust.

52 The Act is amended by adding the following sections:

Recognition of employers

- 88.2** (1) The Director may give recognition to an employer, upon the employer's application, if the employer satisfies the Director that it meets the prescribed criteria.

Classes of employers

- (2) For greater certainty, the criteria under subsection (1) may be prescribed for different classes of employers.

Information re recognitions

- (3) The Director may require any employer who is seeking recognition under subsection (1), or who is the subject of a recognition, to provide the Director with whatever information, records or accounts he or she may require pertaining to the recognition and the Director may make such inquiries and examinations as he or she considers necessary.

Publication

- (4) The Director may publish or otherwise make available to the public information relating to employers given recognition under subsection (1), including the names of employers.

Validity of recognitions

- (5) A recognition given under subsection (1) is valid for the period that the Director specifies in the recognition.

Revocation, etc., of recognitions

(6) The Director may revoke or amend a recognition.

Delegation of powers under s. 88.2

88.3 (1) The Director may authorize an individual employed in the Ministry to exercise a power conferred on the Director under section 88.2, either orally or in writing.

Residual powers

(2) The Director may exercise a power conferred on the Director under section 88.2 even if he or she has delegated it to an individual under subsection (1).

Duty re policies

(3) An individual authorized by the Director under subsection (1) shall follow any policies established by the Director under subsection 88 (2).

53 Section 96.1 of the Act is repealed.

54 Subsection 103 (1) of the Act is amended by striking out “or” at the end of clause (a) and by adding the following clause:

(a.1) order the employer to pay wages to the employee; or

55 Subsection 104 (3) of the Act is repealed and the following substituted:**Terms of orders**

(3) If an order made under this section requires a person to compensate an employee, it shall also require the person to,

(a) pay to the Director in trust,

(i) the amount of the compensation, and

(ii) an amount for administration costs equal to the greater of \$100 and 10 per cent of the amount of compensation; or

(b) pay the amount of the compensation to the employee.

56 Subsection 105 (1) of the Act is repealed and the following substituted:**Employee cannot be found**

(1) If an employment standards officer has arranged with an employer or ordered an employer to pay wages under clause 103 (1) (a) or (a.1) to the employee and the employer is unable to locate the employee despite having made reasonable efforts to do so, the employer shall pay the wages to the Director in trust.

57 Paragraphs 1 and 2 of subsection 108 (4) of the Act are amended by striking out “within the meaning of Part XVIII.1” wherever it appears.

58 (1) Subsection 112 (6) of the Act is repealed and the following substituted:**Administrative costs and collector fees**

(6) If the settlement concerns an order to pay, the Director is, despite clause (1) (c), entitled to be paid,

(a) that proportion of the administrative costs that were ordered to be paid that is the same as the proportion of the amount of wages, fees or compensation ordered to be paid that the employee is entitled to receive under the settlement; and

(b) that proportion of the collector's fees and disbursements that were added to the amount of the order under subsection 128 (2) that is the same as the proportion of the amount of wages, fees or compensation ordered to be paid that the employee is entitled to receive under the settlement.

(2) Paragraphs 1 and 2 of subsection 112 (9) of the Act are amended by striking out “within the meaning of Part XVIII.1” wherever it appears.

59 (1) Subsection 113 (1) of the Act is repealed and the following substituted:**Notice of contravention**

(1) If an employment standards officer believes that a person has contravened a provision of this Act, the officer may issue a notice to the person setting out the officer's belief and specifying the amount of the penalty for the contravention.

Amount of penalty

(1.1) The amount of the penalty shall be determined in accordance with the regulations.

Penalty within range

(1.2) If a range has been prescribed as the penalty for a contravention, the employment standards officer shall determine the amount of the penalty in accordance with the prescribed criteria, if any.

(2) Section 113 of the Act is amended by adding the following subsections:**Publication re notice of contraventions**

(6.2) If a person, including an individual, is deemed under subsection (5) to have contravened this Act after being issued a notice of contravention, the Director may publish or otherwise make available to the general public the name of the person, a description of the deemed contravention, the date of the deemed contravention and the penalty for the deemed contravention.

Internet publication

(6.3) Authority to publish under subsection (6.2) includes authority to publish on the Internet.

Disclosure

(6.4) Any disclosure made under subsection (6.2) shall be deemed to be in compliance with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act*.

60 Paragraphs 1 and 2 of subsection 114 (6) of the Act are amended by striking out “within the meaning of Part XVIII.1” wherever it appears.

61 Paragraphs 1 and 2 of subsection 115 (1.1) of the Act are amended by striking out “within the meaning of Part XVIII.1” wherever it appears.

62 Section 115.1 of the Act is amended by striking out “within the meaning of Part XVIII.1” at the end.

63 Clause 120 (6) (b) of the Act is repealed and the following substituted:

(b) despite clause (4) (b), is entitled to be paid,

- (i) that proportion of the administrative costs that were ordered to be paid that is the same as the proportion of the amount of wages, fees or compensation ordered to be paid that the employee is entitled to receive under the settlement, and
- (ii) that proportion of the collector's fees and disbursements that were added to the amount of the order under subsection 128 (2) that is the same as the proportion of the amount of wages, fees or compensation ordered to be paid that the employee is entitled to receive under the settlement.

64 Subsection 125 (2) of the Act is amended by striking out “within the meaning of Part XVIII.1”.

65 The Act is amended by adding the following sections:

Security for amounts owing

125.1 If the Director considers it advisable to do so, the Director may accept security for the payment of any amounts owing under this Act in any form that the Director considers satisfactory.

Warrant

125.2 If an order to pay money has been made under this Act, the Director may issue a warrant, directed to the sheriff for an area in which any property of the employer, director or other person liable to make a payment under this Act is located, to enforce payment of the following amounts, and the warrant has the same force and effect as a writ of execution issued out of the Superior Court of Justice:

1. The amount the order requires the person to pay, including any applicable interest.
2. The costs and expenses of the sheriff.

Lien on real property

125.3 (1) If an order to pay money has been made under this Act, the amount the order requires the person to pay, including any applicable interest is, upon registration by the Director in the proper land registry office of a notice claiming a lien and charge conferred by this section, a lien and charge on any interest the employer, director or other person has in the real property described in the notice.

Lien on personal property

(2) If an order to pay money has been made under this Act, the amount the order requires the person to pay, including any applicable interest is, upon registration by the Director with the registrar under the *Personal Property Security Act* of a notice claiming a lien and charge under this section, a lien and charge on any interest in personal property in Ontario owned or held at the time of registration or acquired afterwards by the employer, director or other person liable to make a payment.

Amounts included and priority

(3) The lien and charge conferred by subsection (1) or (2) is in respect of all amounts the order requires the person to pay, including any applicable interest at the time of registration of the notice or any renewal of it and all amounts for which the person afterwards becomes liable while the notice remains registered and, upon registration of a notice of lien and charge, the lien and charge has priority over,

- (a) any perfected security interest registered after the notice is registered;
- (b) any security interest perfected by possession after the notice is registered; and
- (c) any encumbrance or other claim that is registered against or that otherwise arises and affects the employer, director or other person's property after the notice is registered.

Exception

(4) For the purposes of subsection (3), a notice of lien and charge under subsection (2) does not have priority over a perfected purchase money security interest in collateral or its proceeds and is deemed to be a security interest perfected by registration for the purpose of the priority rules under section 30 of the *Personal Property Security Act*.

Lien effective

(5) A notice of lien and charge under subsection (2) is effective from the time assigned to its registration by the registrar and expires on the fifth anniversary of its registration unless a renewal notice of lien and charge is registered under this section before the end of the five-year period, in which case the lien and charge remains in effect for a further five-year period from the date the renewal notice is registered.

Same

(6) If an amount payable under this Act remains outstanding and unpaid at the end of the period, or its renewal, referred to in subsection (5), the Director may register a renewal notice of lien and charge; the lien and charge remains in effect for a five-year period from the date the renewal notice is registered until the amount is fully paid, and is deemed to be continuously registered since the initial notice of lien and charge was registered under subsection (2).

Where person not registered owner

(7) Where an employer, director or other person liable to make a payment has an interest in real property but is not shown as its registered owner in the proper land registry office,

- (a) the notice to be registered under subsection (1) shall recite the interest of the employer, director or other person liable to make a payment in the real property; and
- (b) a copy of the notice shall be sent to the registered owner at the owner's address to which the latest notice of assessment under the *Assessment Act* has been sent.

Secured party

(8) In addition to any other rights and remedies, if amounts owed by an employer, director or other person liable to make a payment remain outstanding and unpaid, the Director has, in respect of a lien and charge under subsection (2),

- (a) all the rights, remedies and duties of a secured party under sections 17, 59, 61, 62, 63 and 64, subsections 65 (4), (5), (6), (6.1) and (7) and section 66 of the *Personal Property Security Act*;
- (b) a security interest in the collateral for the purpose of clause 63 (4) (c) of that Act; and
- (c) a security interest in the personal property for the purposes of sections 15 and 16 of the *Repair and Storage Liens Act*, if it is an article as defined in that Act.

Registration of documents

(9) A notice of lien and charge under subsection (2) or any renewal of it shall be in the form of a financing statement or a financing change statement as prescribed under the *Personal Property Security Act* and may be tendered for registration under Part IV of that Act, or by mail addressed to an address prescribed under that Act.

Errors in documents

(10) A notice of lien and charge or any renewal thereof is not invalidated nor is its effect impaired by reason only of an error or omission in the notice or in its execution or registration, unless a reasonable person is likely to be materially misled by the error or omission.

Bankruptcy and Insolvency Act (Canada) unaffected

(11) Subject to Crown rights provided under section 87 of that Act, nothing in this section affects or purports to affect the rights and obligations of any person under the *Bankruptcy and Insolvency Act* (Canada).

Definitions

(12) In this section,

“real property” includes fixtures and any interest of a person as lessee of real property.

66 (1) Subsection 127 (2) of the Act is amended by striking out “sections 125, 126, 130” and substituting “sections 125, 125.1, 125.2, 125.3, 126, 130”.

(2) Section 127 of the Act is amended by adding the following subsections:

Disclosure

(6) The Director may disclose, or allow to be disclosed, information collected under the authority of this Act or the regulations to a collector for the purpose of collecting an amount payable under this Act.

Same

(7) Any disclosure of personal information made under subsection (6) shall be deemed to be in compliance with clause 42 (1) (d) of the *Freedom of Information and Protection of Privacy Act*.

67 Section 128 of the Act is amended by adding the following subsections:

Disclosure by collector

(5) A collector may disclose to the Director or allow to be disclosed to the Director any information that was collected under the authority of this Act or the regulations for the purpose of collecting an amount payable under this Act.

Same

(6) Any disclosure of personal information made under subsection (5) shall be deemed to be in compliance with clause 42 (1) (d) of the *Freedom of Information and Protection of Privacy Act*.

68 Subsection 133 (1) of the Act is amended by striking out “within the meaning of Part XVIII.1”.

69 (1) Subsection 141 (1) of the Act is amended by adding the following paragraph:

1.1 Prescribing a method of payment for the purposes of clause 11 (2) (d) and establishing any terms, conditions or limitations on its use.

(2) Paragraph 2.0.1 of subsection 141 (1) of the Act is amended by striking out “described in subparagraph 1 v of subsection 23.1 (1)” and substituting “described in subparagraph 1 v or 2 v of subsection 23.1 (1)”.

(3) Paragraph 2.0.2 of subsection 141 (1) of the Act is repealed.

(4) Subsection 141 (1) of the Act is amended by adding the following paragraph:

16.1 Governing penalties for contraventions for the purposes of subsection 113 (1).

(5) Subsections 141 (2.0.3) and (2.0.4) of the Act are repealed and the following substituted:

Transitional regulations

(2.0.3) The Lieutenant Governor in Council may make regulations providing for any transitional matter that the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of the amendments made by the *Fair Workplaces, Better Jobs Act, 2017*.

Conflict with transitional regulations

(2.0.4) In the event of a conflict between this Act or the regulations and a regulation made under subsection (2.0.3), the regulation made under subsection (2.0.3) prevails.

(6) Subsection 141 (3.1) of the Act is repealed and the following substituted:

Regulations re Part XXII

(3.1) A regulation made under paragraph 16.1 of subsection (1) may,

(a) establish different penalties or ranges of penalties for different types of contraventions or the method of determining those penalties or ranges;

(b) specify that different penalties, ranges or methods of determining a penalty or range apply to contraveners who are individuals and to contraveners that are corporations; or

(c) prescribe criteria an employment standards officer is required or permitted to consider when imposing a penalty.

Employment Protection for Foreign Nationals Act, 2009

70 (1) Subsection 1 (2) of the *Employment Protection for Foreign Nationals Act, 2009* is amended by adding the following paragraph:

4. For greater certainty, references in section 88 of that Act to an amount owing under the provisions of that Act or the regulations shall be read as references to an amount owing under the provisions of this Act or its regulations.

(2) Subsection 4 (1) of the Act is repealed and the following substituted:

Separate persons treated as one employer

(1) Subsection (2) applies if associated or related activities or businesses are or were carried on by or through an employer or recruiter and one or more other persons.

(3) Subsection 24 (2) of the Act is amended by striking out “pay the amount of the fees to the Director of Employment Standards in trust” and substituting “pay the amount of the fees to the foreign national or prescribed person or to the Director of Employment Standards in trust”.

(4) Subsection 24 (3) of the Act is amended by striking out “pay the amount of the costs to the Director of Employment Standards in trust” and substituting “pay the amount of the costs to the foreign national or prescribed person or to the Director of Employment Standards in trust”.

(5) Subsection 27 (1) of the Act is repealed and the following substituted:

Notice of contravention

(1) If an employment standards officer believes that a person has contravened a provision of this Act, the officer may issue a notice to the person setting out the officer’s belief and specifying the amount of the penalty for the contravention.

Amount of penalty

(1.1) The amount of the penalty shall be determined in accordance with the regulations.

Penalty within range

(1.2) If a range has been prescribed as the penalty for a contravention, the employment standards officer shall determine the amount of the penalty in accordance with the prescribed criteria, if any.

(6) Subsection 27 (4) of the Act is amended by striking out “prescribed penalty” and substituting “penalty”.

(7) Section 27 of the Act is amended by adding the following subsections:

Publication re notice of contraventions

(5) If a person, including an individual, is deemed under subsection (3) to have contravened this Act after being issued a notice of contravention, the Director of Employment Standards may publish or otherwise make available to the general public the name of the person, a description of the deemed contravention, the date of the deemed contravention and the penalty for the deemed contravention.

Internet publication

(6) Authority to publish under subsection (5) includes authority to publish on the Internet.

Disclosure

(7) Any disclosure made under subsection (5) shall be deemed to be in compliance with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act*.

(8) Subsection 50 (1) of the Act is amended by adding the following clause:

- (e) governing penalties for contraventions for the purposes of subsection 27 (1).

(9) Section 50 of the Act is amended by adding the following subsection:

Regulations re penalties for contraventions

(3) A regulation made under clause (1) (e) may,

- (a) establish different penalties or ranges of penalties for different types of contraventions or the method of determining those penalties or ranges;
- (b) specify that different penalties, ranges or methods of determining a penalty or range apply to contraveners who are individuals and to contraveners that are corporations; or
- (c) prescribe criteria an employment standards officer is required or permitted to consider when imposing a penalty.

Occupational Health and Safety Act

71 (1) Paragraph 3 in the definition of “worker” in subsection 1 (1) of the *Occupational Health and Safety Act* is amended by striking out “university or other post-secondary institution” at the end and substituting “university, private career college or other post-secondary institution”.

(2) Paragraph 4 in the definition of “worker” in subsection 1 (1) of the Act is repealed.

Commencement

72 (1) Subject to subsections (2) to (5), this Schedule comes into force on January 1, 2018.

(2) Section 5 and this section come into force on the day the *Fair Workplaces, Better Jobs Act, 2017* receives Royal Assent.

(3) Subsection 8 (7), sections 32, 33 and 36 come into force on the later of December 3, 2017 and the day the *Fair Workplaces, Better Jobs Act, 2017* receives Royal Assent.

(4) Subsection 1 (2) and sections 25, 26, 27, 28, 29, 41 and 45 come into force on April 1, 2018.

(5) Subsections 2 (3), 8 (2) and (6), sections 11 and 12 and subsection 69 (3) come into force on January 1, 2019.

SCHEDULE 2
LABOUR RELATIONS ACT, 1995

1 The *Labour Relations Act, 1995* is amended by adding the following section after the heading “Establishment of Bargaining Rights by Certification”:

Application for employee list

6.1 (1) Where no trade union has been certified as bargaining agent of the employees of an employer in a unit that a trade union claims to be appropriate for collective bargaining and the employees are not bound by a collective agreement, a trade union may apply to the Board for an order directing the employer to provide to the trade union a list of employees of the employer.

Notice to employer

(2) The trade union shall deliver a copy of the application under subsection (1) to the employer by such time as is required under the rules made by the Board and, if there is no rule, not later than the day on which the application is filed with the Board.

Content of application

(3) An application under subsection (1) must include,

- (a) a written description of the proposed bargaining unit, including an estimate of the number of individuals in the unit; and
- (b) a list of the names of the union members in the proposed bargaining unit and evidence of union membership, but the trade union shall not give this information to the employer.

Notice of disagreement

(4) If the employer disagrees with the description of the proposed bargaining unit or with the estimate of the number of individuals in the unit included in the application under subsection (1), the employer may give the Board notice of the disagreement and shall do so within two days (excluding Saturdays, Sundays and holidays) after the day the employer receives the application.

Content of notice

(5) A notice under subsection (4) must include,

- (a) a statement that,
 - (i) the employer agrees with the description of the bargaining unit included in the application under subsection (1) but not with the estimate of the number of individuals in the unit, or
 - (ii) explains why the employer believes the description of the bargaining unit included in the application could not be appropriate for collective bargaining; and
- (b) a statutory declaration setting out the number of individuals in the bargaining unit described in the application under subsection (1), if the employer disagrees with the trade union's estimate.

Board determinations, etc., no notice of disagreement

(6) The following rules apply if the Board does not receive a notice under subsection (4):

1. If the Board determines that 20 per cent or more of the individuals in the bargaining unit proposed in the application under subsection (1) appear to be members of the union at the time the application was filed, the Board shall direct the employer to provide the list to the trade union.
2. If the Board determines that fewer than 20 per cent of the individuals in the bargaining unit proposed in the application under subsection (1) appear to be members of the union at the time the application was filed, the Board shall dismiss the application.

Same, notice of disagreement

(7) The following rules apply if the Board receives a notice under subsection (4):

1. The Board shall determine whether the description of the bargaining unit included in the application under subsection (1) could be appropriate for collective bargaining. The determination shall be based only on that description and the notice under subsection (4).
2. If the Board determines that the description of the bargaining unit included in the application under subsection (1) could not be appropriate for collective bargaining, the Board shall dismiss the application.

3. If the Board determines that the description of the bargaining unit included in the application under subsection (1) could be appropriate for collective bargaining, the Board shall determine an estimated number of individuals in the unit as described in the application.
4. After the Board determines the estimated number of individuals in the unit, the Board shall determine the percentage of the individuals in the bargaining unit who appear to be members of the union at the time the application under subsection (1) was filed.
5. If the percentage determined under paragraph 4 is fewer than 20 per cent, the Board shall dismiss the application.
6. If the percentage determined under paragraph 4 is 20 per cent or more, the Board shall direct the employer to provide a list of employees of the employer to the trade union.

No hearing or consultation required

(8) The Board is not required to hold a hearing or to consult with the parties when making a determination under subsection (7) and may make a determination under paragraphs 3 or 4 of subsection (7) based only on the information provided in the application under subsection (1) and the notice under subsection (4).

Mandatory content of employee list

(9) If the Board directs an employer to provide a list of employees of the employer to the trade union under subsection (6) or (7), the list must include,

- (a) the name of each employee in the proposed bargaining unit; and
- (b) a phone number and personal email for each employee in the proposed bargaining unit, if the employee has provided that information to the employer.

Discretionary content of employee list

(10) If, in the opinion of the Board, it is equitable to do so in the circumstances, the Board may order that the list also include,

- (a) other information relating to the employee, including the employee's job title and business address; and
- (b) any other means of contact that the employee has provided to the employer, other than a home address.

Security and confidentiality of employee list

(11) If the Board directs an employer to provide a list of employees of the employer to a trade union under subsection (6) or (7), the employer shall ensure that all reasonable steps are taken to protect the security and confidentiality of the list, including protecting its security and confidentiality during its creation, compilation, storage, handling, transportation, transfer and transmission.

Restriction on use of listed information

(12) If a list of employees of an employer is provided to a trade union in compliance with a direction made by the Board under subsection (6) or (7), the use of that list is subject to the following conditions and limits:

1. The list must only be used by the trade union for the purpose of a campaign to establish bargaining rights.
2. The list must be kept confidential and must not be disclosed to anyone other than the appropriate officials of the trade union.
3. The trade union shall ensure that all reasonable steps are taken to protect the security and confidentiality of the list and to prevent unauthorized access to the list.
4. If the trade union makes an application for certification in respect of the employer and employees on the list and the application for certification is dismissed less than one year after the Board's direction to provide the list, the list must be destroyed on or before the day the application is dismissed.
5. If the list is not destroyed in accordance with paragraph 4, it must be destroyed on or before the day that is one year after the Board's direction to provide the list was made.

Destruction of list

(13) For the purposes of paragraphs 4 and 5 of subsection (12), a list must be destroyed in such a way that it cannot be reconstructed or retrieved.

Deemed compliance FOI Acts

(14) Any disclosure of personal information made by an employer in compliance with a direction made by the Board under subsection (6) or (7) shall be deemed to be in compliance with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act* and clause 32 (e) of the *Municipal Freedom of Information and Protection of Privacy Act*.

Subsequent certification application

(15) Where a list of employees is provided to a trade union by an employer in compliance with a direction made by the Board under subsection (6) or (7), and, within one year after the Board's direction to provide the list, the trade union makes an application for certification in respect of that employer and employees on the list, if that application is dismissed, the Board shall not consider another application under subsection (1) from any trade union in respect of a proposed bargaining unit that is the same or substantially similar to the one that was described in the original application under subsection (1) until one year after the application for certification is dismissed.

Effect of determination

(16) A determination made by the Board under this section does not limit the Board's ability to consider or determine matters under section 7, 8, 8.1, 9 or 10.

Non-application to construction industry

(17) This section does not apply with respect to an employer as defined in subsection 126 (1).

2 Subsections 11 (2), (3) and (4) of the Act are repealed and the following substituted:**Same**

(2) In the circumstances described in subsection (1), the Board shall certify the trade union as the bargaining agent of the employees in the bargaining unit that the Board determines could be appropriate for collective bargaining.

3 The Act is amended by adding the following section:**No discharge or discipline following certification**

12.1 If a trade union is certified as the bargaining agent of employees in a bargaining unit, the employer shall not discharge or discipline an employee in that bargaining unit without just cause during the period that begins on the date of certification and ends on the earlier of the date on which a first collective agreement is entered into and the date on which the trade union no longer represents the employees in the bargaining unit.

4 The Act is amended by adding the following sections:**Review of structure of bargaining units — consolidation after certification**

15.1 (1) If the Board certifies a trade union or council of trade unions as the bargaining agent of the employees in a bargaining unit, the Board may review the structure of the bargaining units if all of the following conditions are met:

1. The employer, trade union or council of trade unions makes an application to the Board requesting the review at the time the application for certification is made, or within three months after the date of certification.
2. A collective agreement has not yet been entered into in respect of the bargaining unit.
3. The same trade union or council of trade unions that is certified as the bargaining agent of the employees in the bargaining unit already represents employees of the employer in another bargaining unit at the same or a different location.

Same

(2) If an application for review under subsection (1) is made at the same time as an application for certification, the applications may be heard together, but the Board shall determine the application for certification first.

Agreement of parties

(3) If the Board reviews the structure of the bargaining units, the Board,

- (a) must allow the parties to come to an agreement, within a period that the Board considers reasonable, with respect to the determination of bargaining units and any questions arising from its review; and
- (b) may make any orders it considers appropriate to implement any agreement.

Orders

(4) If the Board is of the opinion that the agreement reached by the parties would not lead to the creation of units appropriate for collective bargaining or if the parties do not agree on certain issues within the period that the Board considers reasonable, the Board shall determine any question that arises and make any orders it considers appropriate in the circumstances.

Contents of orders

(5) For the purposes of subsection (4), the Board may,

- (a) consolidate the bargaining unit in respect of which the trade union or council of trade unions was certified with an existing bargaining unit or units of employees of the employer represented by the same trade union or council of trade unions;

- (b) amend any certification order or description of a bargaining unit contained in any collective agreement;
- (c) order that a collective agreement between the employer and the trade union or the council of trade unions that applied to an existing bargaining unit that is consolidated under clause (a) applies, with or without modifications, to the consolidated bargaining unit;
- (d) declare that the employer is no longer bound to a collective agreement that applied in respect of an existing bargaining unit before the consolidation;
- (e) amend, to the extent that the Board considers necessary, the provisions of collective agreements respecting expiry dates or seniority rights, or amend other such provisions;
- (f) if the conditions of subsection 79 (2) have been met with respect to some of the employees in a consolidated bargaining unit, decide which terms and conditions of employment apply to those employees until the time that a collective agreement becomes applicable to the consolidated bargaining unit or the conditions of that subsection are met with respect to that unit; and
- (g) authorize a party to give notice to bargain collectively.

Factors to consider

(6) In making a determination in an application for review under subsection (1), the Board shall take into consideration all factors that the Board considers relevant, including whether consolidating the bargaining units would.

- (a) contribute to the development of an effective collective bargaining relationship; and
- (b) contribute to the development of collective bargaining in the industry.

Authority to review structure of bargaining units on mutual agreement

(7) The employer and a trade union or council of trade unions that represents employees of the employer in multiple bargaining units at the same or a different location may, at any time, agree in writing to review the structure of bargaining units.

Same

(8) Despite subsections 58 (2), (3) and (5) and 59 (1), following a review under subsection (7), the parties may, with the consent of the Board on the joint application of the parties,

- (a) consolidate bargaining units;
- (b) amend the description of a bargaining unit contained in any collective agreement;
- (c) make a collective agreement between the employer and the trade union or the council of trade unions that applied to an existing bargaining unit that is consolidated under clause (a) apply, with or without modifications, to the consolidated bargaining unit;
- (d) terminate the operation of a collective agreement that applied in respect of an existing bargaining unit before the consolidation;
- (e) amend the provisions of a collective agreement, including provisions respecting expiry dates or seniority rights or other such provisions;
- (f) if the conditions of subsection 79 (2) have been met with respect to some of the employees in a consolidated bargaining unit, decide which terms and conditions of employment apply to those employees until the time that a collective agreement becomes applicable to the consolidated bargaining unit or the conditions of that subsection are met with respect to that unit; and
- (g) permit a party to give notice to bargain collectively.

Non-application to construction industry

(9) This section does not apply with respect to an employer as defined in subsection 126 (1).

Application for certification without a vote, certain industries

Definitions

15.2 (1) In this section,

“building services industry” means, subject to the regulations, businesses engaged in providing services directly or indirectly by or to a building owner or manager that are related to servicing the premises, including building cleaning services, food services and security services; (“industrie des services de gestion d’immeubles”)

“home care and community services industry” means, subject to the regulations, businesses engaged in providing community services under the *Home Care and Community Services Act, 1994*; (“industrie des services de soins à domicile et des services communautaires”)

“specified industry employer” means a person who operates a business in the building services industry, the home care and community services industry or the temporary help agency industry; (“employeur d’une industrie déterminée”)

“temporary help agency industry” means, subject to the regulations, businesses engaged in employing persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer. (“industrie des agences de placement temporaire”)

Applications re specified industry employers only

(2) Subject to subsection (3), this section applies with respect to applications for certification as bargaining agent of the employees of a specified industry employer.

Non-application

(3) This section does not apply with respect to such classes of employees of a specified industry employer as may be prescribed.

Election

(4) A trade union applying for certification as bargaining agent of the employees of a specified industry employer may elect to have its application dealt with under this section rather than under section 8.

Notice to Board and employer

(5) The trade union shall give written notice of the election,

- (a) to the Board, on the date the trade union files the application; and
- (b) to the employer, on the date the trade union delivers a copy of the application to the employer.

Employer to provide information

(6) Within two days (excluding Saturdays, Sundays and holidays) after receiving notice under subsection (5), the employer shall provide the Board with,

- (a) the names of the employees in the bargaining unit proposed in the application, as of the date the application is filed; and
- (b) if the employer gives the Board a written description of the bargaining unit that the employer proposes, in accordance with subsection 7 (14), the names of the employees in that proposed bargaining unit, as of the date the application is filed.

Matters to be determined

(7) On receiving an application for certification from a trade union that has elected to have its application dealt with under this section, the Board shall determine, as of the date the application is filed and on the basis of the information provided in or with the application and under subsection (6),

- (a) the bargaining unit; and
- (b) the percentage of employees in the bargaining unit who are members of the trade union.

Exception: allegation of contravention, etc.

(8) Nothing in subsection (7) prevents the Board from considering evidence and submissions relating to any allegation that section 70, 72 or 76 has been contravened or that there has been fraud or misrepresentation, if the Board considers it appropriate to consider the evidence and submissions in making a decision under this section.

Hearing

(9) The Board may hold a hearing if it considers it necessary in order to make a decision under this section.

Dismissal: insufficient membership

(10) The Board shall not certify the trade union as bargaining agent of the employees in the bargaining unit and shall dismiss the application if it is satisfied that fewer than 40 per cent of the employees in the bargaining unit are members of the trade union on the date the application is filed.

Remedial dismissal

(11) Subsection (12) applies where the trade union or person acting on behalf of the trade union contravenes this Act and, as a result, the membership evidence provided in or with the trade union’s application for certification does not likely reflect the true wishes of the employees in the bargaining unit.

Same

(12) In the circumstances described in subsection (11), on the application of an interested person, the Board may dismiss the application for certification if no other remedy, including a representation vote directed under clause (16) (b), would be sufficient to counter the effects of the contravention.

Bar to reapplying

(13) If the Board dismisses an application for certification under subsection (12), the Board shall not consider another application for certification by the trade union as the bargaining agent for any employee that was in the bargaining unit proposed in the original application until one year after the application is dismissed.

Same

(14) Despite subsection (13), the Board may consider an application for certification by the trade union as the bargaining agent for employees in a bargaining unit that includes an employee who was in the bargaining unit proposed in the original application if,

- (a) the position of the employee at the time the original application was made was different from his or her position at the time the new application was made; and
- (b) the employee would not have been in the bargaining unit proposed in the new application had he or she still been occupying the original position when the new application was made.

Board shall direct representation vote

(15) If the Board is satisfied that at least 40 per cent but not more than 55 per cent of the employees in the bargaining unit are members of the trade union on the date the application is filed, it shall direct that a representation vote be taken.

Board may certify or may direct representation vote

(16) If the Board is satisfied that more than 55 per cent of the employees in the bargaining unit are members of the trade union on the date the application is filed, it may,

- (a) certify the trade union as the bargaining agent of the employees in the bargaining unit; or
- (b) direct that a representation vote be taken.

Representation votes

(17) If the Board directs that a representation vote be taken,

- (a) the vote shall, unless the Board directs otherwise, be held within five days (excluding Saturdays, Sundays and holidays) after the day on which the direction for a representation vote is made;
- (b) the vote shall be by ballots cast in such a manner that individuals expressing their choice cannot be identified with the choice made;
- (c) the Board may direct that one or more ballots be segregated and that the ballot box containing the ballots be sealed until such time as the Board directs;
- (d) subject to section 11.1, the Board shall certify the trade union as bargaining agent of the employees in the bargaining unit if more than 50 per cent of the ballots cast in the representation vote by the employees in the bargaining unit are cast in favour of the trade union; and
- (e) subject to section 11, the Board shall not certify the trade union as bargaining agent of the employees in the bargaining unit and shall dismiss the application for certification if 50 per cent or fewer of the ballots cast in the representation vote by the employees in the bargaining unit are cast in favour of the trade union.

Bar to reapplication

(18) If the Board dismisses an application for certification under clause (17) (e), the Board shall not consider another application for certification by any trade union as the bargaining agent of any employee who was in the bargaining unit proposed in the original application until one year after the original application is dismissed.

Exception

(19) Despite subsection (18), the Board may consider an application for certification by a trade union as the bargaining agent for employees in a bargaining unit that includes an employee who was in the bargaining unit proposed in the original application if,

- (a) the position of the employee at the time the original application was made was different from his or her position at the time the new application was made; and
- (b) the employee would not have been in the bargaining unit proposed in the new application had he or she still been occupying the original position when the new application was made.

Same

(20) Subsection (18) does not apply if the trade union whose application was dismissed is a trade union that the Board is prohibited from certifying under section 15.

Non-application of certain provisions

(21) Sections 8, 8.1 and 10 do not apply in respect of a certification application that the trade union has elected to have dealt with under this section.

Withdrawal of application: discretionary bar

(22) Subsection 7 (9) applies, with necessary modifications, if the trade union withdraws the application for certification,

- (a) before the Board takes any action under subsection (10), (15) or (16) of this section; or
- (b) after the Board directs a representation vote under subsection (15) or clause (16) (b) of this section, but before the vote is taken.

Second withdrawal: mandatory bar

(23) Subsections 7 (9.1), (9.2) and (9.3) apply, with necessary modifications, if the trade union withdraws an application for certification in the circumstances described in subsection (22) of this section and had withdrawn a previous application for certification not more than six months earlier.

Withdrawal of application after vote taken: mandatory bar

(24) Subsections 7 (10), (10.1) and (10.2) apply, with necessary modifications, if the trade union withdraws the application for certification after a representation vote is taken in accordance with the Board's direction under subsection (15) or clause (16) (b) of this section.

5 The Act is amended by adding the following section:**Educational support**

16.1 (1) Where notice has been given under section 16, either party may request educational support in the practice of labour relations and collective bargaining and the Minister shall make such educational support available to the parties.

Same, non-application

(2) Subsection (1) does not apply in the circumstances described in subsection 43 (12).

6 Section 43 of the Act is repealed and the following substituted:**First collective agreement mediation**

43 (1) If the parties are unable to effect a first collective agreement and the Minister has released a notice that it is not considered advisable to appoint a conciliation board or the Minister has released the report of a conciliation board, either party may apply to the Minister to appoint a first collective agreement mediator.

Content of application

(2) The applicant must include in its application under subsection (1) a list of the issues in dispute and the applicant's position with respect to those issues.

Notice to other party

(3) The applicant shall deliver a copy of the application under subsection (1) to the other party not later than the day on which the application is made to the Minister.

Response from other party

(4) No later than five days after receiving the copy of the application under subsection (1), the other party shall provide to the Minister and to the applicant a list of the issues in dispute and the other party's position with respect to those issues.

Appointment of mediator

(5) If an application is made under subsection (1), the Minister shall, within seven days of receiving the application, appoint a single first collective agreement mediator and shall inform the parties of the appointment.

Duties of mediator

(6) The first collective agreement mediator shall,

- (a) meet with the parties and assist them in their endeavour to effect a collective agreement; and
- (b) facilitate and encourage the process of collective bargaining.

Educational support

(7) Either party may request educational support in the practice of labour relations and collective bargaining and the first collective agreement mediator shall make such educational support available to the parties.

Prohibition re strike

(8) No employee shall strike and no person or trade union shall call or authorize or threaten to call or authorize a strike by any employee during the period beginning at the time the Minister makes an appointment under subsection (5) and ending on the day that is 45 days later.

Same

(9) No officer, official or agent of a trade union shall counsel, procure, support or encourage a strike by any employees during the time period described in subsection (8).

Prohibition re lock-out

(10) The employer shall not lock out or threaten to lock out any employees during the time period described in subsection (8).

Same

(11) No officer, official or agent of an employer shall counsel, procure, support or encourage a lock-out of any employees during the time period described in subsection (8).

Non-application

(12) This section does not apply,

- (a) in respect of a bargaining unit that the Board has consolidated under section 15.1; or
- (b) to the negotiation of a first collective agreement,
 - (i) if the trade union was certified pursuant to an application made under subsection 7 (4), (5) or (6),
 - (ii) if one of the parties is an employers' organization accredited under section 136 as a bargaining agent for employers, or
 - (iii) if the agreement is a provincial agreement within the meaning of section 151.

Definitions

(13) In subsections (14) and (15),

"decertification application" means an application for a declaration that a trade union no longer represents the employees in a bargaining unit; ("requête en révocation de l'accréditation")

"displacement application" means an application for certification by a trade union, other than the trade union that represents the employees in a bargaining unit, as bargaining agent for those employees. ("requête en substitution")

Application of subs. (15)

(14) Subsection (15) applies if,

- (a) a decertification application or displacement application has been filed with the Board and, before a final decision is made on it, an application under subsection (1) is made to the Minister; or
- (b) an application under subsection (1) has been made to the Minister and, on or after that date, a decertification application or displacement application is filed with the Board.

Procedure in dealing with multiple applications

(15) The Board shall not deal or continue to deal with a decertification application or displacement application until 45 days after the Minister makes an appointment under subsection (5), at which time subsections 43.1 (24) and (25) apply.

First collective agreement mediation-arbitration

43.1 (1) At any time on or after the day that is 45 days after the Minister makes an appointment under subsection 43 (5), if the parties have not entered into a collective agreement, either party may apply to the Board to direct the settlement of a first collective agreement by mediation-arbitration.

Duty of Board

(2) The Board shall consider and make its decision on an application under subsection (1) within 30 days of receiving the application and, subject to subsections (3) and (4), the Board may,

- (a) order the parties to engage in further mediation;
- (b) dismiss the application; or

- (c) direct the settlement of a first collective agreement by mediation-arbitration.

Same

(3) The Board shall direct the settlement of a first collective agreement by mediation-arbitration unless,

- (a) the applicant has contravened section 17;
- (b) it appears to the Board that the process of collective bargaining has been unsuccessful because of the uncompromising nature of any bargaining position adopted by the applicant without reasonable justification; or
- (c) the Board is of the opinion that further mediation would be appropriate.

Same

(4) If the Board certified the trade union under subsection 11 (2), the Board shall direct the settlement of a first collective agreement by mediation-arbitration unless,

- (a) the applicant has contravened section 17; or
- (b) it appears to the Board that the process of collective bargaining has been unsuccessful because of the uncompromising nature of any bargaining position adopted by the applicant without reasonable justification.

Order for further mediation or dismissal

(5) If the Board orders the parties to engage in further mediation or dismisses an application under subsection (2), the following rules apply:

1. The right to strike and the right to lock out is governed by section 79.
2. In the case of an order under clause (2) (a), the parties shall request further assistance from the first collective agreement mediator or from another mediator the parties agree upon, or the parties shall make a joint request to the Minister for further mediation assistance.
3. In the case of a dismissal under clause (2) (b), the parties may request further assistance from the first collective agreement mediator or from another mediator the parties agree upon, or the parties may make a joint request to the Minister for further mediation assistance.
4. A party may make a second application under subsection (1) and the Board may consider the application if the Board is satisfied that, since the Board made its original decision under subsection (2), the applicant has taken all reasonable steps to engage in good faith collective bargaining with the assistance of a mediator.

Direction to mediation-arbitration

(6) If the Board gives a direction for the settlement of a first collective agreement by mediation-arbitration under clause (2) (c), the rules set out in subsections (7) to (22) apply.

Joint appointment of mediator-arbitrator

(7) Within seven days of the giving of the direction, the parties may agree in writing to jointly appoint a single mediator-arbitrator to settle the first collective agreement by mediation-arbitration.

Fees and expenses

(8) If the parties jointly appoint a single mediator-arbitrator, each party shall pay one-half of the fees and expenses of the mediator-arbitrator.

Failure to appoint

(9) If the parties do not jointly appoint a mediator-arbitrator within the seven-day period, either party may apply to the Board to settle the first collective agreement by mediation-arbitration.

Mediation-arbitration by Board

(10) If an application is made to the Board under subsection (9), the chair or a vice-chair shall be appointed to act as the mediator-arbitrator and shall have all the powers and duties of a mediator-arbitrator under this Act.

Same

(11) The parties to a mediation-arbitration by the Board shall jointly pay to the Board for payment into the Consolidated Revenue Fund the amount determined under the regulations for the expense of the mediation-arbitration.

Replacement

(12) If the person appointed as mediator-arbitrator is unable or unwilling to perform the mediator-arbitrator's duties, the following rules apply:

1. If the appointment was made under subsection (7), the parties shall agree on the appointment of a new mediator-arbitrator, and if they cannot do so, either party may apply to the Board under subsection (9) and the process shall begin anew.
2. If the mediator-arbitrator was a chair or vice-chair acting under subsection (10), the matter shall be reassigned by the Board and the process shall begin anew.

Procedure of mediator-arbitrator

(13) A mediator-arbitrator appointed under this section shall determine the mediator-arbitrator's own procedure but shall give full opportunity to the parties to present their evidence and make their submissions, and section 116 applies to the mediator-arbitrator and the mediator-arbitrator's decision and proceedings as if it were the Board.

Same

(14) Subsections 48 (12) and (18) apply, with necessary modifications, to a mediator-arbitrator appointed under this section.

Same

(15) The date of the first hearing of a mediator-arbitrator appointed under this section shall not be later than 21 days after the appointment of the mediator-arbitrator.

Same

(16) A mediator-arbitrator appointed under this section shall determine all matters in dispute and release a decision within 45 days of the commencement of the mediator-arbitrator's hearing of the matter.

Effect of direction on strike or lock-out

(17) The employees in the bargaining unit shall not strike and the employer shall not lock out the employees where a direction has been given under clause (2) (c) and, where the direction is made during a strike by, or a lock-out of, employees in the bargaining unit, the employees shall forthwith terminate the strike or the employer shall forthwith terminate the lock-out and the employer shall forthwith reinstate the employees in the bargaining unit in the employment they had at the time the strike or lock-out commenced in accordance with section 80, with necessary modifications.

Working conditions not to be altered

(18) If a direction has been given under clause (2) (c), the rates of wages and all other terms and conditions of employment and all rights, privileges and duties of the employer, the employees and the trade union in effect at the time notice was given under section 16 shall continue in effect, or, if altered before the giving of the direction, be restored and continued in effect until the first collective agreement is settled.

Non-application

(19) Subsection (18) does not apply so as to effect any alteration in rates of wages or in any other term or condition of employment agreed to by the employer and the trade union.

Matters to be accepted or considered

(20) In mediating-arbitrating the settlement of a first collective agreement under this section, matters agreed to by the parties, in writing, shall be accepted without amendment.

Effect of settlement

(21) A first collective agreement settled under this section is effective for a period of two years from the date on which it is settled and it may provide that any of the terms of the agreement, except its term of operation, shall be retroactive to the day that the mediator-arbitrator may fix, but not earlier than the day on which notice was given under section 16.

Extension of time

(22) The parties, by agreement in writing, or the Minister may extend any time limit set out in this section, despite the expiration of the time.

Definitions

(23) In subsections (24) to (28),

"decertification application" means an application for a declaration that a trade union no longer represents the employees in a bargaining unit; ("requête en révocation de l'accréditation")

"displacement application" means an application for certification by a trade union, other than the trade union that represents the employees in a bargaining unit, as bargaining agent for those employees; ("requête en substitution")

Application of subs. (25)

(24) Subsection (25) applies if,

- (a) a decertification application or displacement application has been filed with the Board and, before a final decision is made on it, an application under subsection (1) is filed with the Board; or
- (b) an application under subsection (1) has been filed with the Board and, before a final decision is made on it, a decertification application or displacement application is filed with the Board.

Procedure in dealing with multiple applications

(25) The Board shall proceed to deal with an application under subsection (1) before dealing with or continuing to deal with the decertification application or displacement application.

Same

(26) If the Board directs the settlement of a first collective agreement by mediation-arbitration under clause (2) (c), it shall dismiss the decertification application or displacement application.

Same

(27) If the Board dismisses the application under clause (2) (b), it shall proceed to deal with the decertification application or displacement application.

Same

(28) If the Board makes an order under clause (2) (a), it shall not consider the decertification application or displacement application for a period of 30 days after the date of the order.

Same

(29) An application for a declaration that a trade union no longer represents the employees in the bargaining unit filed with the Board after the Board has given a direction under clause (2) (c) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsection 63 (2).

Same

(30) An application for certification by another trade union as bargaining agent for employees in the bargaining unit filed with the Board after the Board has given a direction under clause (2) (c) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsections 7 (4), (5) and (6).

Procedure

(31) The *Arbitration Act, 1991* does not apply to a mediation-arbitration under this section.

7 The Act is amended by adding the following sections:**Successor rights, building services**

69.1 (1) This section applies with respect to services provided directly or indirectly by or to a building owner or manager that are related to servicing the premises, including building cleaning services, food services and security services.

Exclusions

(2) This section does not apply with respect to the following services:

1. Construction.
2. Maintenance other than maintenance activities related to cleaning the premises.
3. The production of goods other than goods related to the provision of food services at the premises for consumption on the premises.

Services under contract

(3) For the purposes of section 69, the sale of a business is deemed to have occurred,

- (a) if employees perform services at premises that are their principal place of work;
- (b) if their employer ceases, in whole or in part, to provide the services at those premises; and
- (c) if substantially similar services are subsequently provided at the premises under the direction of another employer.

Interpretation

(4) For the purposes of section 69, the employer referred to in clause (3) (b) of this section is considered to be the employer who sells the business and the employer referred to in clause (3) (c) of this section is considered to be the person to whom the business is sold.

Successor rights, other service providers

69.2 If the regulations so provide, section 69 applies to such other types of service providers that directly or indirectly receive public funds as may be prescribed, subject to such terms and conditions as may be prescribed.

8 (1) Subsection 80 (1) of the Act is amended by striking out “within six months from” and substituting “following”.

(2) Section 80 of the Act is amended by adding the following subsections:

Same

(3) Subject to subsections (5) to (7), at the conclusion of a lawful strike or lock-out, an employer of an employee who was engaged in a lawful strike or lawfully locked out shall reinstate the employee in the employee's former employment on such terms as the employer and the bargaining agent that represents the employee may agree upon.

Same

(4) The requirement in subsection (3) may be enforced through the grievance procedure and arbitration procedure established in the new collective agreement or deemed to be included in the collective agreement under section 48.

Right to displace others

(5) Striking or locked out employees are entitled to displace any other persons who were performing the work of striking or locked out employees during the strike or lock-out if the length of service of the other person, as of the time the strike or lock-out began, is less than that of the striking or locked-out employee.

Insufficient work

(6) If there is not sufficient work for all striking or locked out employees, the employer shall reinstate them to employment in the bargaining unit as work becomes available,

- (a) if the collective agreement contains recall provisions that are based on seniority, in accordance with seniority as defined in those provisions and as determined when the strike or lock-out began, in relation to other employees in the bargaining unit who were employed at the time the strike or lock-out began; or
- (b) if there are no such recall provisions, in accordance with each employee's length of service, as determined when the strike or lock-out began, in relation to other employees in the bargaining unit who were employed at the time the strike or lock-out began.

Starting up operations

(7) Subsection (6) does not apply if an employee is not able to perform work required to start up the employer's operations, but only for the period of time required to start up operations.

9 The Act is amended by adding the following section:

No discharge or discipline following strike or lock-out

80.1 (1) An employer shall not discharge or discipline an employee in a bargaining unit without just cause during the period that begins on the date on which a strike or lock-out in respect of that bargaining unit became lawful and that ends on the earlier of the date on which a new collective agreement is entered into and the date on which the trade union no longer represents the employees in the bargaining unit.

Same, enforcement

(2) The requirement in subsection (1) may be enforced through the grievance procedure and arbitration procedure established in the new collective agreement or deemed to be included in the collective agreement under section 48.

10 Section 98 of the Act is repealed and the following substituted:

Board power re interim orders

98 (1) The Board may make interim decisions and orders in any proceeding.

Conditions

(2) The Board may impose conditions on an interim decision or order.

Reasons

(3) An interim decision or order need not be accompanied by reasons.

11 (1) Clause 104 (1) (a) of the Act is amended by striking out “\$2,000” and substituting “\$5,000”.

(2) Clause 104 (1) (b) of the Act is amended by striking out “\$25,000” at the end and substituting “\$100,000”.

12 (1) Subsection 111 (2) of the Act is amended by adding the following clauses:

- (h.1) to conduct votes at a location or in a manner that, in the opinion of the Board, is appropriate in the circumstances, including to conduct votes outside the workplace and to conduct votes electronically or by telephone;
- (h.2) to issue direction relating to the voting process or voting arrangements;

(2) Clause 111 (2) (i) of the Act is amended by striking out “clauses (a) to (h)” and substituting “clauses (a) to (h.2)”.

13 (1) Section 125 of the Act is amended by adding the following clauses:

- (i.1) prescribing classes of employees in respect of which section 15.2 does not apply;
- (i.2) further defining or clarifying the meaning of “building services industry” in section 15.2 and specifying businesses or types of businesses that are or are not included in the building services industry for the purposes of that section;
- (i.3) further defining or clarifying the meaning of “home care and community services industry” in section 15.2 and specifying businesses or types of businesses that are or are not included in the home care and community services industry for the purposes of that section;
- (i.4) further defining or clarifying the meaning of “temporary help agency industry” in section 15.2 and specifying businesses or types of businesses that are or are not included in the temporary help agency industry for the purposes of that section;

(2) Clause 125 (j) of the Act is repealed and the following substituted:

- (j) prescribing amounts or a method of determining amounts payable under subsection 43.1 (11) for the expense of a mediation-arbitration by the Board;

(3) Section 125 of the Act is amended by adding the following clause:

- (j.1) for the purposes of section 69.2, prescribing types of service providers that directly or indirectly receive public funds to which section 69 applies and prescribing terms and conditions for the purpose of the application of that section;

(4) Section 125 of the Act is amended by adding the following subsections:**Transitional regulations**

(2) The Lieutenant Governor in Council may make regulations providing for any transitional matter that the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of the amendments made by the *Fair Workplaces, Better Jobs Act, 2017*.

Conflict with transitional regulations

(3) In the event of a conflict between this Act and a regulation made under subsection (2), the regulation prevails.

14 Subsection 160 (2) of the Act is amended by striking out “clause 11 (2) (c)” and substituting “subsection 11 (2)”.

Colleges Collective Bargaining Act, 2008

15 (1) Subsection 78 (1) of the *Colleges Collective Bargaining Act, 2008* is amended by striking out “Subsections 98 (1) to (5), sections 110 to 113” at the beginning and substituting “Sections 98 and 110 to 113”.

(2) Paragraph 1 of subsection 78 (2) of the Act is repealed.

Crown Employees Collective Bargaining Act, 1993

16 (1) Subsection 5 (1) of the *Crown Employees Collective Bargaining Act, 1993* is amended by striking out “section 43” and substituting “section 43.1”.

(2) Subsection 5 (2) of the Act is amended by striking out “arbitrations under section 43” in the portion before paragraph 1 and substituting “mediation-arbitrations under section 43.1”.

(3) Subsection 5 (3) of the Act is amended by striking out “arbitration” wherever it appears and substituting in each case “mediation-arbitration” and by striking out “subsection 43 (11)” and substituting “subsection 43.1 (15)”.

(4) Subsection 5 (4) of the Act is amended by,

- (a) striking out “board of arbitration” in the portion before clause (a) and substituting “mediator-arbitrator”;
- (b) striking out “subsection 43 (12)” in the portion before clause (a) and substituting “subsection 43.1 (16)”;
- (c) striking out “members of the board of arbitration” in clause (b) and substituting “mediator-arbitrator”.

(5) Subsection 5 (5) of the Act is amended by striking out “An arbitrator or board of arbitration” at the beginning and substituting “A mediator-arbitrator”.

(6) Section 26 of the Act is amended by striking out “Section 43 of the *Labour Relations Act, 1995* does not apply” at the beginning and substituting “Sections 43 and 43.1 of the *Labour Relations Act, 1995* do not apply”.

Public Sector Dispute Resolution Act, 1997

17 Clause 2 (1) (e) of the *Public Sector Dispute Resolution Act, 1997* is amended by adding “as it read immediately before the day section 6 of Schedule 2 to the *Fair Workplaces, Better Jobs Act, 2017* came into force” after “*Labour Relations Act, 1995*”.

Public Sector Labour Relations Transition Act, 1997

18 Subsections 32 (1), (2) and (3) of the *Public Sector Labour Relations Transition Act, 1997* are amended by striking out “*Labour Relations Act, 1995*” wherever it appears and substituting in each case “*Labour Relations Act, 1995, as it read immediately before the day section 6 of Schedule 2 to the Fair Workplaces, Better Jobs Act, 2017 came into force*”.

School Boards Collective Bargaining Act, 2014

19 Section 7 of the *School Boards Collective Bargaining Act, 2014* is amended by adding the following subsections:

s. 15.1 of the *Labour Relations Act, 1995*

(2) Section 15.1 of the *Labour Relations Act, 1995* does not apply for the purpose of determining bargaining units under subsection (1) unless the Lieutenant Governor in Council, by regulation, provides otherwise.

Same, regulations

(3) A regulation made under subsection (2) may provide for the application of section 15.1 of the *Labour Relations Act, 1995* for the purposes of this section and may clarify, modify or restrict the application of that section.

Commencement

20 This Schedule comes into force on the later of January 1, 2018 and the day the *Fair Workplaces, Better Jobs Act, 2017* receives Royal Assent.

SCHEDULE 3
OCCUPATIONAL HEALTH AND SAFETY ACT

1 The *Occupational Health and Safety Act* is amended by adding the following section:

Footwear

25.1 (1) An employer shall not require a worker to wear footwear with an elevated heel unless it is required for the worker to perform his or her work safely.

Exception

(2) Subsection (1) does not apply with respect to an employer of a worker who works as a performer in the entertainment and advertising industry.

Definitions

(3) In subsection (2),

“entertainment and advertising industry” means the industry of producing,

(a) live or broadcast performances, or

(b) visual, audio or audio-visual recordings of performances, in any medium or format; (“industrie du spectacle et de la publicité”)

“performance” means a performance of any kind, including theatre, dance, ice skating, comedy, musical productions, variety, circus, concerts, opera, modelling and voice-overs, and “performer” has a corresponding meaning. (“représentation”, “artiste”, “interprète”)

Commencement

2 This Schedule comes into force on the day the *Fair Workplaces, Better Jobs Act, 2017* receives Royal Assent.

EXPLANATORY NOTE

This Explanatory Note was written as a reader's aid to Bill 148 and does not form part of the law. Bill 148 has been enacted as Chapter 22 of the Statutes of Ontario, 2017.

SCHEDULE 1
EMPLOYMENT STANDARDS ACT, 2000

The Schedule makes various amendments to the *Employment Standards Act, 2000*.

The Act is amended to bind the Crown, subject to an exception in section 4 of the Act (Separate persons treated as one employer).

New section 5.1 prohibits employers from treating, for the purposes of the Act, a person who is their employee as if the person were not an employee under the Act.

New Part VII.1 (Requests for Changes to Schedule or Work Location) adds an ability for employees to request changes to their schedule or work location. Employers who receive these requests must discuss them with the employee and either grant them or provide reasons for a denial.

New Part VII.2 (Scheduling) sets out new scheduling provisions. These include a minimum of three hours' pay for shifts that are under three hours, minimum pay for being on call, a right to refuse requests or demands to work on a day that an employee is not scheduled to work with insufficient notice and entitlement to pay for three hours of work in the event of cancellation with insufficient notice. The existing power to make regulations requiring employers to pay a minimum prescribed amount to employees who work fewer than three hours in a day is repealed.

Part VIII (Overtime Pay) is amended to establish a rule for overtime pay for employees who have two or more regular rates for work performed for the same employer.

Section 23.1 (Determination of minimum wage) is amended to increase the minimum wage on January 1, 2018. The minimum wage increases again on January 1, 2019 and is subject to an annual inflation adjustment on October 1 of every year starting in 2019. The minimum wage for employees who serve liquor now applies only if the employee also regularly receives tips or other gratuities from their work.

Part X (Public Holidays) is amended. The rules for the calculation of public holiday pay under section 24 are amended to be based on the number of days actually worked in the pay period immediately preceding the public holiday. Sections 27, 28, 29 and 30 are amended to require an employer to provide an employee with a written statement that sets out certain information when a day is substituted for a public holiday.

Part XI (Vacation With Pay) is amended to provide a minimum of three weeks of vacation entitlement to employees whose period of employment is five years or more, beginning after the end of the employee's vacation entitlement year. Related amendments are made throughout the Part.

Part XII (Equal Pay for Equal Work) is amended to add four new provisions. A definition is added that provides that "substantially the same" means "substantially the same but not necessarily identical". The Part is amended to provide for an entitlement for equal pay from an employer regardless of a difference in employment status and an entitlement for equal pay for assignment employees of a temporary help agency who perform substantially the same work as an employee of the temporary help agency's client. Finally, new section 42.3 requires that the Minister cause a review of the new entitlements. Related amendments are made to the reprisal provisions in the Act to prohibit reprisals against employees who make inquiries about rates of pay or who disclose their rate of pay for the purpose of determining or assisting in determining whether an employer is complying with Part XII.

Part XIV (Leaves of Absence) is amended. The entitlement to six weeks pregnancy leave in certain circumstances is increased to 12 weeks. Section 48 is amended to provide that a parental leave may begin no later than 78 weeks after the child is born or comes into the employee's custody, care and control for the first time. The entitlement to parental leave is increased from 35 weeks to 61 weeks for employees who take pregnancy leave, and from 37 weeks to 63 weeks otherwise. The entitlement to family medical leave is increased from up to eight weeks to up to 28 weeks. Currently, an employee may take leave to provide care and support to their critically ill child; new section 49.4 provides that an employee is entitled to take leave to provide care and support to any critically ill family member. New section 49.5 establishes an entitlement to up to 104 weeks of unpaid leave if a child of the employee dies for any reason, instead of the current entitlement to leave only in the event of a crime-related child death. New section 49.6 retains the entitlement to crime-related child disappearance leave but increases the entitlement from up to 52 weeks to up to 104 weeks.

New section 49.7 (Domestic or Sexual Violence Leave) provides that an employee who has been employed by an employer for at least 13 consecutive weeks is entitled to up to 10 days and up to 15 weeks of leave if the employee or a child of the employee experiences domestic or sexual violence or the threat of domestic or sexual violence. The first five days of leave are to be paid. The leave must be taken for any of the purposes listed in the section.

Section 50 (Personal Emergency Leave) is amended to provide personal emergency leave to all employees, not just employees of employers who regularly employ 50 or more employees. In addition, two days of personal emergency leave are now required to be paid days, if the employee has been employed by the employer for one week or longer. The paid days have to be taken before any unpaid days of personal emergency leave in a calendar year. Employers retain the right to require evidence of entitlement to these days but are not permitted to require a certificate from a qualified health practitioner.

Part XVIII.1 (Temporary Help Agencies) is amended to add a new section 74.10.1. This section requires temporary help agencies to provide an assignment employee with one week's written notice or pay in lieu if an assignment that was estimated to last for three months or more is terminated before the end of its estimated term unless another assignment lasting at least one week is offered to the employee.

Subsection 88 (5) (Interest) is amended to allow the Director to calculate rates of interest for amounts owing under different provisions of the Act or the regulations and for money held by the Director in trust.

New sections 88.2 and 88.3 allow the Director to provide recognition of employers that meet prescribed criteria.

The requirement in section 96.1 (Steps required before complaint assigned) for a complainant to take steps specified by the Director before the Director assigns a complaint for investigation is repealed.

Subsection 103 (1) (Order to pay wages) is amended to allow employment standards officers to order employers to pay wages directly to employees. Similar amendments are made to other order-making powers.

Section 113 (Notice of contravention) is amended to provide that the penalties for contraventions shall be determined in accordance with the regulations, which permit the establishment of a penalty range or of different penalties that apply to individuals and to corporations. Employment standards officers are given the discretion to determine a penalty within the range in accordance with the prescribed criteria, if any. New provisions are added to authorize the Director to publish information related to a deemed contravention of the Act following the issuance of a notice of contravention.

New provisions are added to Part XXIV (Collection) to allow the Director to accept security for amounts owing under the Act, issue warrants to collect money pursuant to an order under the Act or register a lien respecting money owed pursuant to an order under the Act. These powers may be delegated to collectors. The Director and the collectors may disclose information to each other for the purpose of collecting an amount payable under the Act.

Related consequential amendments are made to the *Employment Protection for Foreign Nationals Act, 2009* and to the *Occupational Health and Safety Act*.

SCHEDULE 2 LABOUR RELATIONS ACT, 1995

The Schedule makes various amendments to the *Labour Relations Act, 1995*.

Section 6.1 is added to the Act. Under this section, in certain circumstances, a trade union may apply to the Ontario Labour Relations Board for an order directing an employer to provide the trade union with a list of employees of the employer. The section sets out the process for applying, obtaining and using such a list and establishes the rules to be followed by the Board in determining whether to make an order.

The rules that govern when the Board will certify a trade union where there has been a contravention of the Act by an employer in section 11 of the Act are amended.

Section 15.1 is added to the Act. Under that section, in certain circumstances, the Board may review the structure of bargaining units and make orders in respect of the structure of bargaining units, and the parties may by agreement and with the consent of the Board make changes to the structure of bargaining units.

New section 15.2 provides for an alternate process for the certification of trade unions as the bargaining agents of employees of specified industry employers. The specified industries are the building services industry, the home care and community services industry, and the temporary help agency industry. The trade union may elect to have its application for certification dealt with under section 15.2 (application for certification without a vote) rather than under section 8 (representation vote).

Currently, section 43 provides for first agreement arbitration where parties are unable to effect a first collective agreement. The section is re-enacted to provide for first collective agreement mediation. Section 43.1 is also added to the Act and provides for first collective agreement mediation-arbitration where the first collective agreement mediation under section 43 does not result in the parties entering into a collective agreement.

Sections 69.1 and 69.2 are added to the Act. Those sections set out rules governing how section 69 (successor rights) apply in respect of certain service providers.

Amendments are made to section 80 of the Act, which governs the reinstatement of employees. New provisions provide for the reinstatement of employees at the conclusion of a lawful strike or lock-out and set out the rules that govern reinstatement.

Sections 12.1 and 80.1 are added to the Act. Those sections provide that, during certain bargaining periods, an employer may not discharge or discipline an employee in an affected bargaining unit without just cause.

Section 98, which governs the powers of the Board to make interim orders, is amended.

Technical and consequential amendments are also made.

SCHEDULE 3
OCCUPATIONAL HEALTH AND SAFETY ACT

A new section is added to the *Occupational Health and Safety Act* that provides that an employer shall not require a worker to wear footwear with an elevated heel unless it is required for the worker to perform his or her work safely. An exception from this prohibition is made for employers of performers in the entertainment and advertising industry.

CHAPITRE 22

Loi modifiant la Loi de 2000 sur les normes d'emploi, la Loi de 1995 sur les relations de travail et la Loi sur la santé et la sécurité au travail et apportant des modifications connexes à d'autres lois

Sanctionnée le 27 novembre 2017

SOMMAIRE

1.	Contenu de la présente loi
2.	Entrée en vigueur
3.	Titre abrégé
Annexe 1	Loi de 2000 sur les normes d'emploi
Annexe 2	Loi de 1995 sur les relations de travail
Annexe 3	Loi sur la santé et la sécurité au travail

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Contenu de la présente loi

1 La présente loi est constituée du présent article, des articles 2 et 3 et de ses annexes.

Entrée en vigueur

2 (1) Sous réserve des paragraphes (2) et (3), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.

(2) Les annexes de la présente loi entrent en vigueur comme le prévoit chacune d'elles.

(3) Si une annexe de la présente loi prévoit que l'une ou l'autre de ses dispositions entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation, la proclamation peut s'appliquer à une ou à plusieurs d'entre elles. En outre, des proclamations peuvent être prises à des dates différentes en ce qui concerne n'importe lesquelles de ces dispositions.

Titre abrégé

3 Le titre abrégé de la présente loi est *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois*.

ANNEXE 1
LOI DE 2000 SUR LES NORMES D'EMPLOI

1 (1) Le paragraphe 1 (1) de la Loi de 2000 sur les normes d'emploi est modifié par adjonction des définitions suivantes :

«client» Relativement à une agence de placement temporaire, s'entend de la personne ou de l'entité qui conclut avec l'agence un arrangement aux termes duquel l'agence convient d'affecter ou de tenter d'affecter un ou plusieurs de ses employés ponctuels à l'exécution d'un travail pour la personne ou l'entité à titre temporaire. («client»)

«employé ponctuel» Employé qu'une agence de placement temporaire emploie afin de l'affecter à l'exécution d'un travail à titre temporaire pour des clients de l'agence. («assignment employee»)

(2) Le paragraphe 1 (1) de la Loi est modifié par adjonction de la définition suivante :

«situation d'emploi différente» Relativement à un ou plusieurs employés, s'entend d'une différence :

- a) soit dans le nombre d'heures qu'ils travaillent normalement;
- b) soit dans la durée de leur emploi, notamment quant à leur statut d'employé permanent, temporaire, saisonnier ou occasionnel. («difference in employment status»)

(3) Le paragraphe 1 (1) de la Loi est modifié par adjonction de la définition suivante :

«indemnité de congé en cas de violence familiale ou sexuelle» Indemnité pour tout jour de congé payé pris en vertu de l'article 49.7. («domestic or sexual violence leave pay»)

(4) L'alinéa c) de la définition de «employé» au paragraphe 1 (1) de la Loi est abrogé et remplacé par ce qui suit :

- c) de quiconque reçoit une formation d'une personne qui est un employeur, si les compétences visées par cette formation sont des compétences qu'utilisent les employés de l'employeur;

(5) Le paragraphe 1 (1) de la Loi est modifié par adjonction de la définition suivante :

«indemnité de congé d'urgence personnelle» Indemnité pour tout jour de congé payé pris en vertu de l'article 50. («personal emergency leave pay»)

(6) La définition de «jour férié» au paragraphe 1 (1) de la Loi est modifiée par adjonction de la disposition suivante :

- 1.1 Le jour de la Famille, soit le troisième lundi de février.

(7) La définition de «salaire normal» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«salaire normal» Tout salaire autre que la rémunération des heures supplémentaires, le salaire pour jour férié, le salaire majoré, l'indemnité de vacances, l'indemnité de congé en cas de violence familiale ou sexuelle, l'indemnité de congé d'urgence personnelle, l'indemnité de licenciement, l'indemnité de cessation d'emploi et l'indemnité de fin d'affectation et la rémunération prévue par les dispositions du contrat de travail d'un employé qui, en application du paragraphe 5 (2), l'emportent sur la partie VIII, X ou XI, l'article 49.7, l'article 50, la partie XV ou l'article 74.10.1. («regular wages»)

(8) La définition de «période tampon» au paragraphe 1 (1) de la Loi est modifiée par suppression de «qui commence le jour de l'entrée en vigueur de l'article 3 de l'annexe J de la Loi de 2002 sur l'efficacité du gouvernement ou par la suite» dans le passage qui précède l'alinéa a).

(9) Le paragraphe 1 (1) de la Loi est modifié par adjonction des définitions suivantes :

«agence de placement temporaire» Employeur qui emploie des personnes afin de les affecter à l'exécution d'un travail à titre temporaire pour ses clients. («temporary help agency»)

«indemnité de fin d'affectation» Indemnité versée à l'employé ponctuel lorsqu'il est mis fin à son affectation avant la fin de la durée estimative de celle-ci aux termes de l'article 74.10.1. («termination of assignment pay»)

«pourboire ou autre gratification» S'entend de ce qui suit :

- a) tout paiement volontairement versé à un employé ou laissé à son intention par un client de son employeur dans des circonstances telles qu'une personne raisonnable conclurait vraisemblablement que le client voulait que l'employé garde ce paiement ou le partage avec d'autres employés ou présumait qu'il le ferait;
- b) tout paiement volontairement versé à un employeur par un client dans des circonstances telles qu'une personne raisonnable conclurait vraisemblablement que le client voulait que ce paiement soit remis à un employé ou réparti entre plusieurs ou présumait qu'il le serait;
- c) tout paiement de frais de service ou de frais semblables demandé par un employeur à un client dans des circonstances telles qu'une personne raisonnable conclurait vraisemblablement que le client voulait que ce paiement soit remis à un employé ou réparti entre plusieurs ou présumait qu'il le serait;

d) les autres paiements prescrits.

Sont toutefois exclus de la présente définition :

e) les paiements prescrits;

f) les frais prescrits relatifs au mode de paiement utilisé, ou la partie prescrite de ces frais. («tip or other gratuity»)

(10) L'alinéa d) de la définition de «salaire» au paragraphe 1 (1) de la Loi est abrogé et remplacé par ce qui suit :

d) les pourboires ou autres gratifications;

(11) Le paragraphe 1 (2) de la Loi est abrogé et remplacé par ce qui suit :

Formation comprise dans l'affectation à un travail

(2) Il est entendu que le fait d'être affecté à l'exécution d'un travail pour un client d'une agence de placement temporaire emporte le fait d'être affecté au client pour recevoir une formation afin d'exécuter ce travail.

(12) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Forme électronique

(3.1) L'entente qui se présente sous forme électronique satisfait à l'exigence énoncée au paragraphe (3) qu'une entente soit écrite.

2 (1) Le paragraphe 3 (4) de la Loi est abrogé.

(2) Le paragraphe 3 (5) de la Loi est modifié par adjonction de la disposition suivante :

2.1 Le particulier qui exécute un travail dans le cadre d'un programme approuvé par un collège privé d'enseignement professionnel inscrit en vertu de la *Loi de 2005 sur les collèges privés d'enseignement professionnel* et qui répond aux critères prescrits.

(3) La disposition 6 du paragraphe 3 (5) de la Loi est abrogée.

3 La Loi est modifiée par adjonction de l'article suivant :

Couronne liée

3.1 La présente loi lie la Couronne.

4 (1) Le paragraphe 4 (1) de la Loi est abrogé et remplacé par ce qui suit :

Personnes distinctes considérées comme un seul employeur

(1) Le paragraphe (2) s'applique si des activités ou des entreprises associées ou liées sont ou étaient exercées ou exploitées par l'employeur et une ou plusieurs autres personnes ou par leur intermédiaire.

(2) L'article 4 de la Loi est modifié par adjonction du paragraphe suivant :

Exception : la Couronne

(4.1) Le paragraphe (2) ne s'applique ni à la Couronne ni à un de ses organismes ou à un office, un conseil, une commission ou une personne morale dont elle nomme tous les membres.

5 La Loi est modifiée par adjonction de l'article suivant :

Traitement interdit

5.1 (1) L'employeur ne doit pas, dans le cadre de la présente loi, traiter une personne qui est son employé comme si elle n'était pas un employé aux termes de la présente loi.

Fardeau de la preuve

(2) Sous réserve du paragraphe 122 (4), si, au cours de l'enquête ou de l'inspection d'un agent des normes d'emploi ou dans le cadre d'une instance introduite en vertu de la présente loi, autre qu'une poursuite, l'employeur ou le présumé employeur prétend qu'une personne n'est pas un employé, il lui incombe de prouver cette assertion.

6 Le paragraphe 11 (2) de la Loi est abrogé et remplacé par ce qui suit :

Mode de versement

(2) L'employeur verse le salaire de l'employé selon un des modes suivants :

a) en espèces;

b) par chèque fait uniquement à l'ordre de l'employé;

c) par dépôt direct, conformément au paragraphe (4);

d) par un autre mode de versement prescrit.

7 L'article 14.1 de la Loi est abrogé.**8 (1) Le paragraphe 15 (1) de la Loi est modifié par adjonction des dispositions suivantes :**

3.1 Les dates et les heures où l'employé a travaillé.

3.2 Si l'employé a au moins deux taux horaires normaux pour le travail exécuté pour l'employeur et que, au cours d'une semaine de travail, l'employé a travaillé pour l'employeur en sus du seuil de travail supplémentaire, les dates et les heures où l'employé a travaillé en sus du seuil de travail supplémentaire à chaque taux horaire.

(2) Le paragraphe 15 (1) de la Loi est modifié par adjonction des dispositions suivantes :

3.3 Les dates et les heures où il était prévu que l'employé travaille ou soit sur appel, et tout changement apporté à l'horaire de travail sur appel.

3.4 Toute annulation, au sens du paragraphe 21.6 (2), d'une journée de travail ou période de travail sur appel prévue de l'employé, ainsi que la date et l'heure de l'annulation.

(3) La disposition 5 du paragraphe 15 (1) de la Loi est modifiée par remplacement de «de l'article 12.1» par «de l'article 12.1, des paragraphes 27 (2.1), 28 (2.1), 29 (1.1) et 30 (2.1)».**(4) Le paragraphe 15 (3) de la Loi est modifié par remplacement de «la disposition 4» par «la disposition 3.1 ou 4» dans le passage qui précède l'alinéa a).****(5) La disposition 3 du paragraphe 15 (5) de la Loi est modifiée par remplacement de «la disposition 4» par «la disposition 3.1, 3.2 ou 4».****(6) La disposition 3 du paragraphe 15 (5) de la Loi, telle qu'elle est modifiée par le paragraphe (5), est modifiée par remplacement de «la disposition 3.1, 3.2 ou 4» par «la disposition 3.1, 3.2, 3.3, 3.4 ou 4».****(7) Le paragraphe 15 (7) de la Loi est modifié par remplacement de «d'un congé pour soins à un enfant gravement malade» par «d'un congé en cas de maladie grave».****(8) Le paragraphe 15 (7) de la Loi est modifié par remplacement de «d'un congé en cas de décès ou de disparition d'un enfant dans des circonstances criminelles» par «d'un congé en cas de décès d'un enfant, d'un congé en cas de disparition d'un enfant dans des circonstances criminelles, d'un congé en cas de violence familiale ou sexuelle».****9 (1) Le paragraphe 15.1 (2) de la Loi est modifié par adjonction de la disposition suivante :**

4.1 L'indemnité de vacances que l'employé a accumulée au cours de l'année de référence et son mode de calcul.

(2) Le paragraphe 15.1 (3) de la Loi est modifié :

a) par remplacement de «, pour un employé, une année de référence différente qui commence le jour de l'entrée en vigueur de l'article 3 de l'annexe J de la *Loi de 2002 sur l'efficacité du gouvernement* ou par la suite» par «une année de référence différente pour un employé» dans le passage qui précède la disposition 1;

b) par adjonction de la disposition suivante :

3.1 L'indemnité de vacances que l'employé a accumulée au cours de la période tampon et le mode de calcul de cette indemnité.

(3) Le paragraphe 15.1 (5) de la Loi est modifié par remplacement de «trois ans» par «cinq ans».**(4) Le paragraphe 15.1 (7) de la Loi est abrogé et remplacé par ce qui suit :****Disposition transitoire**

(7) Les paragraphes 15.1 (2) et (3), tels qu'ils existaient immédiatement avant le jour de l'entrée en vigueur de l'article 9 de l'annexe 1 de la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois*, continuent de s'appliquer à l'égard des années de référence et des périodes tampons qui ont commencé avant ce jour.

10 La version française du paragraphe 18 (2) de la Loi est modifiée par remplacement de «sur demande» par «sur appel».**11 La Loi est modifiée par adjonction de la partie suivante :****PARTIE VII.1****DEMANDES DE MODIFICATION DE L'HORAIRE OU DU LIEU DE TRAVAIL****Demande de modification de l'horaire ou du lieu de travail**

21.2 (1) L'employé qui est employé par son employeur depuis au moins trois mois peut lui demander par écrit de modifier son horaire ou son lieu de travail.

Réception de la demande

(2) L'employeur qui reçoit une demande présentée en vertu du paragraphe (1) :

- a) discute de la demande avec l'employé;
- b) avise l'employé de sa décision dans un délai raisonnable suivant la réception de la demande.

Demande accordée

(3) Si l'employeur accorde la demande en totalité ou en partie, l'avis visé à l'alinéa (2) b) doit préciser la date d'effet et la durée de la modification.

Demande rejetée

(4) Si l'employeur rejette la demande en totalité ou en partie, l'avis visé à l'alinéa (2) b) doit indiquer les motifs du rejet.

12 La Loi est modifiée par adjonction de la partie suivante :

PARTIE VII.2
ÉTABLISSEMENT DES HORAIRES DE TRAVAIL

Règle des trois heures

21.3 (1) Si un employé qui travaille normalement plus de trois heures par jour est tenu de se présenter au travail mais travaille moins de trois heures, alors qu'il était disponible pour travailler plus longtemps, l'employeur lui verse un salaire correspondant à trois heures de travail, égal au plus élevé de ce qui suit :

1. La somme des éléments suivants :
 - i. la somme gagnée par l'employé pour la période travaillée,
 - ii. le salaire correspondant au taux horaire normal de l'employé pour le reste de la période.
2. Le salaire correspondant au taux horaire normal de l'employé pour trois heures de travail.

Exception

(2) Le paragraphe (1) ne s'applique pas si l'employeur est incapable de fournir du travail à l'employé pour une raison indépendante de sa volonté qui entraîne une interruption de travail, par exemple un incendie, la foudre, une panne de courant ou un orage.

Rémunération minimale de l'employé sur appel

21.4 (1) Si l'employé qui est sur appel n'est pas tenu de travailler ou est tenu de travailler mais travaille moins de trois heures, alors qu'il était disponible pour travailler plus longtemps, l'employeur lui verse un salaire correspondant à trois heures de travail, égal au plus élevé de ce qui suit :

1. La somme des éléments suivants :
 - i. la somme gagnée par l'employé pour la période travaillée,
 - ii. le salaire correspondant au taux horaire normal de l'employé pour le reste de la période.
2. Le salaire correspondant au taux horaire normal de l'employé pour trois heures de travail.

Exception

(2) Le paragraphe (1) ne s'applique pas si :

- a) d'une part, l'employeur a exigé que l'employé soit sur appel afin d'assurer la prestation continue de services publics essentiels, quels qu'en soient les fournisseurs;
- b) d'autre part, l'employé qui était sur appel n'a pas été tenu de travailler.

Plafond

(3) Le paragraphe (1) exige uniquement que l'employeur rémunère l'employé pour un minimum de trois heures au cours de la période de 24 heures qui commence au début de la première fois où il est sur appel pendant cette période, même s'il l'est à plusieurs reprises pendant ce temps.

Primauté de la convention collective

(4) En cas d'incompatibilité, la disposition de la convention collective en vigueur le 1^{er} janvier 2019 qui porte sur la rémunération des employés sur appel l'emporte sur le présent article.

Idem : restriction

(5) Le paragraphe (4) cesse de s'appliquer le premier en date du jour de l'expiration de la convention collective et du 1^{er} janvier 2020.

Droit de refus

21.5 (1) L'employé a le droit de refuser de travailler ou d'être sur appel une journée où il n'est pas prévu qu'il travaille ou soit sur appel si son employeur le lui demande ou l'exige moins de 96 heures avant le début de son quart ou de la période de travail sur appel, selon le cas.

Exception

(2) Le paragraphe (1) ne s'applique pas si l'employeur demande ou exige que l'employé travaille ou soit sur appel pour l'une ou l'autre des raisons suivantes :

- a) pour s'occuper d'une situation d'urgence;
- b) pour éliminer ou réduire le danger pour la sécurité publique;
- c) pour assurer la prestation continue de services publics essentiels, quels qu'en soient les fournisseurs;
- d) pour les autres raisons prescrites.

Avis obligatoire

(3) L'employé qui refuse, en vertu du paragraphe (1), de travailler ou d'être sur appel comme le lui demande ou l'exige l'employeur l'en avise dès que possible.

Primauté de la convention collective

(4) En cas d'incompatibilité, la disposition de la convention collective en vigueur le 1^{er} janvier 2019 qui porte sur le droit de l'employé de refuser de travailler ou d'être sur appel une journée non prévue comme le lui demande ou l'exige l'employeur l'emporte sur le présent article.

Idem : restriction

(5) Le paragraphe (4) cesse de s'appliquer le premier en date du jour de l'expiration de la convention collective et du 1^{er} janvier 2020.

Définition

(6) La définition qui suit s'applique au présent article.

«situation d'urgence» S'entend de l'une ou l'autre des situations suivantes :

- a) une situation ou situation imminente dangereuse à un point tel qu'elle risquerait de causer un grave préjudice à des personnes ou d'importants dommages à des biens et qui est due à un fléau de la nature, à une maladie ou autre risque pour la santé, à un accident ou à un acte intentionnel ou autre;
- b) une situation entraînant une opération de recherche et de sauvetage.

Annulation

21.6 (1) L'employeur qui annule une journée de travail ou une période de travail sur appel prévue dans les 48 heures avant le début du quart ou de la période de travail sur appel, selon le cas, de l'employé lui verse un salaire correspondant à son taux horaire normal pour trois heures de travail.

Sens de «annulation»

(2) Pour l'application du paragraphe (1), une journée de travail ou une période de travail sur appel prévue est annulée si elle l'est intégralement, mais non si elle est réduite ou prolongée.

Exception

(3) Le paragraphe (1) ne s'applique pas dans l'un ou l'autre des cas suivants :

- a) l'employeur est incapable de fournir du travail à l'employé pour une raison indépendante de sa volonté qui entraîne une interruption de travail, par exemple un incendie, la foudre, une panne de courant ou un orage;
- b) la nature du travail de l'employé dépend des conditions météorologiques et l'employeur est incapable de lui fournir du travail en raison d'intempéries;
- c) l'employeur est incapable de fournir du travail à l'employé pour les autres raisons prescrites.

Primauté de la convention collective

(4) En cas d'incompatibilité, la disposition de la convention collective en vigueur le 1^{er} janvier 2019 qui porte sur la rémunération de l'employé lorsque l'employeur annule sa journée de travail ou sa période de travail sur appel prévue l'emporte sur le présent article.

Idem : restriction

(5) Le paragraphe (4) cesse de s'appliquer le premier en date du jour de l'expiration de la convention collective et du 1^{er} janvier 2020.

Plafond

21.7 La rémunération à laquelle l'employé a droit en application de la présente partie à l'égard d'une journée de travail prévue ou d'une période de travail sur appel prévue se limite au paiement de trois heures.

13 (1) Le paragraphe 22 (1) de la Loi est modifié par adjonction de «Sous réserve du paragraphe (1.1),» au début du paragraphe.

(2) L'article 22 de la Loi est modifié par adjonction du paragraphe suivant :

Idem : au moins deux taux horaires normaux

(1.1) Si l'employé est rémunéré selon au moins deux taux horaires normaux pour le travail qu'il a exécuté pour le même employeur au cours d'une semaine de travail :

- a) l'employé a droit à la rémunération des heures supplémentaires pour chaque heure de travail exécuté au cours de la semaine après que le nombre total d'heures travaillées pour l'employeur a atteint le seuil de travail supplémentaire;
- b) la rémunération des heures supplémentaires pour chaque heure visée à l'alinéa a) correspond à une fois et demie le taux horaire normal qui s'applique au travail exécuté au cours de cette heure.

14 La Loi est modifiée par adjonction de l'article suivant :

Changement du salaire minimum pendant une période de paie

23.0.1 Si le taux de salaire minimum applicable à un employé change pendant une période de paie, les calculs exigés par le paragraphe 23 (4) sont effectués comme si la période de paie consistait en deux périodes de paie distinctes, la première correspondant à la tranche antérieure au jour où le changement prend effet et la seconde à la tranche commençant ce jour-là.

15 (1) Le paragraphe 23.1 (1) de la Loi est abrogé et remplacé par ce qui suit :

Établissement du salaire minimum

(1) Le salaire minimum correspond à ce qui suit :

1. À partir du 1^{er} janvier 2018, mais avant le 1^{er} janvier 2019, le montant indiqué ci-dessous pour les catégories suivantes d'employés :
 - i. Pour les employés qui sont des étudiants de moins de 18 ans et qui ne travaillent pas plus de 28 heures par semaine ou qui sont employés pendant un congé scolaire, 13,15 \$ l'heure.
 - ii. Pour les employés qui, dans le cours normal de leur emploi, servent des boissons alcoolisées directement aux clients, aux hôtes ou aux membres dans des locaux pour lesquels un permis ou un permis de circonstance a été délivré en vertu de la *Loi sur les permis d'alcool*, et qui reçoivent normalement des pourboires ou d'autres gratifications dans le cadre de leur travail, 12,20 \$ l'heure.
 - iii. Pour les services de guides de chasse et de pêche, 70 \$ pour moins de cinq heures consécutives au cours d'une journée et 140 \$ pour au moins cinq heures au cours d'une journée, qu'elles soient consécutives ou non.
 - iv. Pour les employés qui sont des travailleurs à domicile, 15,40 \$ l'heure.
 - v. Pour les employés qui ne sont pas visés aux sous-dispositions i à iv, 14 \$ l'heure.
2. À partir du 1^{er} janvier 2019, mais avant le 1^{er} octobre 2019, le montant indiqué ci-dessous pour les catégories suivantes d'employés :
 - i. Pour les employés qui sont des étudiants de moins de 18 ans et qui ne travaillent pas plus de 28 heures par semaine ou qui sont employés pendant un congé scolaire, 14,10 \$ l'heure.
 - ii. Pour les employés qui, dans le cours normal de leur emploi, servent des boissons alcoolisées directement aux clients, aux hôtes ou aux membres dans des locaux pour lesquels un permis ou un permis de circonstance a été délivré en vertu de la *Loi sur les permis d'alcool*, et qui reçoivent normalement des pourboires ou d'autres gratifications dans le cadre de leur travail, 13,05 \$ l'heure.
 - iii. Pour les services de guides de chasse et de pêche, 75 \$ pour moins de cinq heures consécutives au cours d'une journée et 150 \$ pour au moins cinq heures au cours d'une journée, qu'elles soient consécutives ou non.
 - iv. Pour les employés qui sont des travailleurs à domicile, 16,50 \$ l'heure.
 - v. Pour les employés qui ne sont pas visés aux sous-dispositions i à iv, 15 \$ l'heure.
3. À partir du 1^{er} octobre 2019, le montant établi en application du paragraphe (4).

Étudiants travaillant à domicile

(1.1) L'employeur verse au moins le salaire minimum des travailleurs à domicile à l'employé visé à la fois aux sous-dispositions 1 i et iv du paragraphe (1) ou à la fois aux sous-dispositions 2 i et iv du paragraphe (1).

(2) Le paragraphe 23.1 (2) de la Loi est modifié par remplacement de «la sous-disposition 1 v du paragraphe (1)» par «la sous-disposition 1 v ou 2 v du paragraphe (1)» dans le passage qui précède l'alinéa a).

(3) Le paragraphe 23.1 (4) de la Loi est modifié par remplacement du passage qui précède l'équation par ce qui suit :

Rajustement annuel

(4) Le 1^{er} octobre de chaque année à partir de 2019, le salaire minimum qui s'appliquait à une catégorie d'employés immédiatement avant le 1^{er} octobre est rajusté comme suit :

(4) Le paragraphe 23.1 (7) de la Loi est modifié par remplacement de «2014» par «2018».

(5) Le paragraphe 23.1 (8) de la Loi est abrogé.

(6) Le paragraphe 23.1 (10) de la Loi est modifié par remplacement de «2020» par «2024».

16 Le paragraphe 24 (1) de la Loi est abrogé et remplacé par ce qui suit :

Salaire pour jour férié

(1) Le salaire pour jour férié de l'employé pour un jour férié donné correspond :

- a) soit au quotient du salaire normal gagné pour la période de paie qui précède le jour férié par le nombre de jours que l'employé a travaillés au cours de cette période;
- b) soit à la somme obtenue en utilisant l'autre mode de calcul prescrit, le cas échéant.

Idem : congé ou vacances

(1.1) Si l'employé est en congé en vertu de l'article 50, en vacances ou les deux pendant toute la période de paie qui précède le jour férié, le calcul prévu à l'alinéa 24 (1) a) est appliqué à la période de paie précédant le début de ce congé ou de ces vacances.

Idem : employé sans période de paie avant le jour férié

(1.2) Si l'employé n'était pas employé pendant la période de paie qui précède un jour férié, son salaire pour jour férié pour le jour férié correspond au quotient du salaire normal gagné pendant la période de paie qui comprend le jour férié par le nombre de jours que l'employé a travaillés au cours de cette période.

17 L'article 27 de la Loi est modifié par adjonction du paragraphe suivant :

Jour de congé substitué à un jour férié

(2.1) Si un jour est substitué à un jour férié en application de l'alinéa (2) a), l'employeur remet à l'employé, avant le jour férié, un relevé écrit énonçant les renseignements suivants :

- a) le jour férié où l'employé travaillera;
- b) la date du jour substitué au jour férié en application de l'alinéa (2) a);
- c) la date de remise du relevé à l'employé.

18 L'article 28 de la Loi est modifié par adjonction du paragraphe suivant :

Jour de congé substitué à un jour férié

(2.1) Si un jour est substitué à un jour férié en application de l'alinéa (2) a), l'employeur remet à l'employé, avant le jour férié, un relevé écrit énonçant les renseignements suivants :

- a) le jour férié où l'employé travaillera;
- b) la date du jour substitué au jour férié en application de l'alinéa (2) a);
- c) la date de remise du relevé à l'employé.

19 L'article 29 de la Loi est modifié par adjonction du paragraphe suivant :

Jour de congé substitué à un jour férié

(1.1) Si un jour est substitué à un jour férié en application du paragraphe (1), l'employeur remet à l'employé, avant le jour férié, un relevé écrit énonçant les renseignements suivants :

- a) le jour férié qui est substitué;
- b) la date du jour substitué au jour férié en application du paragraphe (1);

- c) la date de remise du relevé à l'employé.

20 L'article 30 de la Loi est modifié par adjonction du paragraphe suivant :

Jour de congé substitué à un jour férié

(2.1) Si un jour est substitué à un jour férié en application de l'alinéa (2) a), l'employeur remet à l'employé, avant le jour férié, un relevé écrit énonçant les renseignements suivants :

- a) le jour férié où l'employé travaillera;
- b) la date du jour substitué au jour férié en application de l'alinéa (2) a);
- c) la date de remise du relevé à l'employé.

21 Les articles 33, 34 et 35 de la Loi sont abrogés et remplacés par ce qui suit :

Droit à des vacances

33 (1) L'employeur accorde à l'employé des vacances :

- a) d'au moins deux semaines après chaque année de référence qu'il termine, si sa période d'emploi est inférieure à cinq ans;
- b) d'au moins trois semaines après chaque année de référence qu'il termine, si sa période d'emploi est d'au moins cinq ans.

Emploi effectif ou non

(2) Il est tenu compte à la fois de l'emploi effectif et de l'emploi non effectif pour l'application du paragraphe (1).

Semaines non complètes

(3) Si l'employé ne prend pas des semaines complètes de vacances, l'employeur calcule le nombre de jours de vacances auxquels il a droit :

- a) en fonction du nombre de jours compris dans sa semaine normale de travail;
- b) s'il n'a pas de semaine normale de travail, en fonction du nombre moyen de jours qu'il a travaillés par semaine au cours de la dernière année de référence complète.

Disposition transitoire

(4) L'alinéa (1) b) exige que les employeurs accordent, aux employés dont la période d'emploi est d'au moins cinq ans, au moins trois semaines de vacances après chaque année de référence qui se termine le 31 décembre 2017 ou par la suite, mais il n'exige pas qu'ils accordent des jours de vacances supplémentaires à l'égard des années de référence qui se sont terminées avant ce moment-là.

Année de référence différente

Application

34 (1) Le présent article s'applique si l'employeur établit une année de référence différente pour un employé.

Vacances pendant la période tampon : période d'emploi inférieure à cinq ans

(2) Si la période d'emploi de l'employé est inférieure à cinq ans, l'employeur prend les mesures suivantes à l'égard de la période tampon :

1. Il calcule le rapport qui existe entre la période tampon et la période de 12 mois.
2. Si l'employé a une semaine normale de travail, il lui accorde pour la période tampon des vacances correspondant au produit de deux semaines par le rapport calculé en application de la disposition 1.
3. Si l'employé n'a pas de semaine normale de travail, il lui accorde pour la période tampon des vacances correspondant au produit suivant :

$$2 \times A \times \text{le rapport calculé en application de la disposition 1}$$

où :

A représente le nombre moyen de jours que l'employé a travaillés par semaine de travail pendant la période tampon.

Vacances pendant la période tampon : période d'emploi d'au moins cinq ans

(3) Si la période d'emploi de l'employé est d'au moins cinq ans, l'employeur prend les mesures suivantes à l'égard de la période tampon :

1. Il calcule le rapport qui existe entre la période tampon et la période de 12 mois.

2. Si l'employé a une semaine normale de travail, il lui accorde pour la période tampon des vacances correspondant au produit de trois semaines par le rapport calculé en application de la disposition 1.
3. Si l'employé n'a pas de semaine normale de travail, il lui accorde pour la période tampon des vacances correspondant au produit suivant :

$$3 \times A \times \text{le rapport calculé en application de la disposition 1}$$

où :

A représente le nombre moyen de jours que l'employé a travaillés par semaine de travail pendant la période tampon.

Emploi effectif ou non

(4) Il est tenu compte à la fois de l'emploi effectif et de l'emploi non effectif pour l'application des paragraphes (2) et (3).

Disposition transitoire

(5) Le paragraphe (3) exige que les employeurs accordent, aux employés dont la période d'emploi est d'au moins cinq ans, des vacances calculées conformément à ce paragraphe pour une période tampon qui se termine le 31 décembre 2017 ou par la suite mais il n'exige pas qu'ils accordent des jours de vacances supplémentaires à l'égard d'une période tampon qui s'est terminée avant ce moment-là.

Moment des vacances

35 L'employeur détermine à quel moment l'employé prendra des vacances pour une année de référence, sous réserve des règles suivantes :

1. Les vacances doivent être terminées au plus tard 10 mois après la fin de l'année de référence pour laquelle elles sont accordées.
2. Si la période d'emploi de l'employé est inférieure à cinq ans, les vacances doivent s'échelonner sur deux semaines consécutives ou sur deux périodes d'une semaine chacune, à moins que l'employé ne demande par écrit de prendre des périodes plus courtes et que l'employeur accepte.
3. Si la période d'emploi de l'employé est d'au moins cinq ans, les vacances doivent s'échelonner sur trois semaines consécutives, sur deux semaines consécutives et une autre semaine ou sur trois semaines non consécutives, à moins que l'employé ne demande par écrit de prendre des périodes plus courtes et que l'employeur accepte.

22 Le paragraphe 35.1 (1) de la Loi est abrogé et remplacé par ce qui suit :

Moment des vacances : année de référence différente

(1) Le présent article s'applique si l'employeur établit une année de référence différente pour un employé.

23 L'article 35.2 de la Loi est abrogé et remplacé par ce qui suit :

Indemnité de vacances

35.2 L'employeur verse à l'employé qui a droit à des vacances en application de l'article 33 ou 34 une indemnité de vacances qui représente au moins :

- a) 4 % du salaire, à l'exclusion de l'indemnité de vacances, qu'il a gagné pendant la période pour laquelle des vacances sont accordées, si sa période d'emploi est inférieure à cinq ans;
- b) 6 % du salaire, à l'exclusion de l'indemnité de vacances, qu'il a gagné pendant la période pour laquelle des vacances sont accordées, si sa période d'emploi est d'au moins cinq ans.

24 Le paragraphe 41.1 (6) de la Loi est abrogé.

25 La partie XII de la Loi est modifiée par adjonction de l'article suivant :

Interprétation

41.2 La définition qui suit s'applique à la présente partie.

«essentiellement semblable» Essentiellement semblable mais pas nécessairement identique.

26 (1) L'alinéa 42 (2) d) de la Loi est modifié par adjonction de «ou la situation d'emploi» à la fin de l'alinéa.

(2) La version française du paragraphe 42 (4) de la Loi est modifiée par remplacement de «doit faire» par «ne doit faire».

(3) L'article 42 de la Loi est modifié par adjonction du paragraphe suivant :

Réponse écrite

(6) L'employé qui croit que son taux de salaire n'est pas conforme au paragraphe (1) peut en demander la révision à son employeur, lequel :

- a) rajuste la rémunération de l'employé en conséquence;
- b) s'il n'est pas d'accord avec l'opinion de l'employé, lui fournit une réponse écrite motivant son désaccord.

27 La partie XII de la Loi est modifiée par adjonction de l'article suivant :

Situation d'emploi différente

42.1 (1) Aucun employeur ne doit accorder à un employé un taux de salaire inférieur à celui qu'il accorde à un autre de ses employés en raison de leur situation d'emploi différente dans les circonstances suivantes :

- a) ils exécutent un travail essentiellement semblable dans un même établissement;
- b) leur travail exige un effort et des compétences essentiellement semblables et comprend des responsabilités essentiellement semblables;
- c) leur travail est exécuté dans des conditions comparables.

Exception

(2) Le paragraphe (1) ne s'applique pas lorsque la différence de taux de salaire se fonde sur l'un ou l'autre des critères suivants :

- a) une échelle d'ancienneté;
- b) une distinction fondée sur le mérite;
- c) une échelle de rémunération fondée sur la quantité ou la qualité de la production;
- d) tout autre facteur que le sexe ou la situation d'emploi.

Réduction interdite

(3) Aucun employeur ne doit réduire le taux de salaire d'un employé afin de se conformer au paragraphe (1).

Associations

(4) Aucun syndicat ni aucun autre organisme ne doit faire ni tenter de faire en sorte qu'un employeur contrevenne au paragraphe (1).

Somme réputée être un salaire

(5) L'agent des normes d'emploi qui conclut qu'un employeur a contrevenu au paragraphe (1) peut fixer la somme due à un employé par suite de la contravention. Cette somme est réputée être un salaire impayé dû à cet employé.

Réponse écrite

(6) L'employé qui croit que son taux de salaire n'est pas conforme au paragraphe (1) peut en demander la révision à son employeur, lequel :

- a) rajuste la rémunération de l'employé en conséquence;
- b) s'il n'est pas d'accord avec l'opinion de l'employé, lui fournit une réponse écrite motivant son désaccord.

Disposition transitoire : convention collective

(7) En cas d'incompatibilité, la disposition de la convention collective en vigueur le 1^{er} avril 2018 qui permet des différences de rémunération fondées sur la situation d'emploi l'emporte sur le paragraphe (1).

Idem : restriction

(8) Le paragraphe (7) cesse de s'appliquer le premier en date du jour de l'expiration de la convention collective et du 1^{er} janvier 2020.

28 La partie XII de la Loi est modifiée par adjonction de l'article suivant :

Situation d'emploi différente des employés ponctuels

42.2 (1) Aucune agence de placement temporaire ne doit accorder à un employé ponctuel qui est affecté à l'exécution d'un travail pour un client un taux de salaire inférieur à celui qui est accordé à un employé du client dans les circonstances suivantes :

- a) ils exécutent un travail essentiellement semblable dans un même établissement;
- b) leur travail exige un effort et des compétences essentiellement semblables et comprend des responsabilités essentiellement semblables;
- c) leur travail est exécuté dans des conditions comparables.

Exception

(2) Le paragraphe (1) ne s'applique pas lorsque la différence de taux de salaire se fonde sur tout facteur autre que le sexe, la situation d'emploi ou le statut d'employé ponctuel.

Réduction interdite

(3) Aucun client d'une agence de placement temporaire ne doit réduire le taux de salaire d'un employé en vue d'aider l'agence à se conformer au paragraphe (1).

Associations

(4) Aucun syndicat ni aucun autre organisme ne doit faire ni tenter de faire en sorte qu'une agence de placement temporaire contrevenne au paragraphe (1).

Somme réputée être un salaire

(5) L'agent des normes d'emploi qui conclut qu'une agence de placement temporaire a contrevenu au paragraphe (1) peut fixer la somme due à un employé ponctuel par suite de la contravention. Cette somme est réputée être un salaire impayé dû à cet employé ponctuel.

Réponse écrite

(6) L'employé ponctuel qui croit que son taux de salaire n'est pas conforme au paragraphe (1) peut en demander la révision à l'agence de placement temporaire, laquelle :

- a) rajuste la rémunération de l'employé ponctuel en conséquence;
- b) si elle n'est pas d'accord avec l'opinion de l'employé ponctuel, lui fournit une réponse écrite motivant son désaccord.

Disposition transitoire : convention collective

(7) En cas d'incompatibilité, la disposition de la convention collective en vigueur le 1^{er} avril 2018 qui permet des différences de rémunération entre les employés d'un client et un employé ponctuel l'emporte sur le paragraphe (1).

Idem : restriction

(8) Le paragraphe (7) cesse de s'appliquer le premier en date du jour de l'expiration de la convention collective et du 1^{er} janvier 2020.

29 La partie XII de la Loi est modifiée par adjonction de l'article suivant :**Examen**

42.3 (1) Avant le 1^{er} avril 2021, le ministre fait entreprendre un examen des articles 42.1 et 42.2.

Idem

(2) Le ministre peut préciser la date à laquelle un examen entrepris en application du paragraphe (1) doit être terminé.

30 La Loi est modifiée par adjonction de l'article suivant :**Définition**

46.1 La définition qui suit s'applique à l'article 46.

«médecin dûment qualifié» S'entend de l'une ou l'autre des personnes suivantes :

- a) une personne ayant qualité pour exercer à titre de médecin;
- b) une personne ayant qualité pour exercer à titre de sage-femme;
- c) une infirmière autorisée ou un infirmier autorisé titulaire d'un certificat d'inscription supérieur délivré sous le régime de la *Loi de 1991 sur les infirmières et infirmiers*;
- d) dans les circonstances prescrites, un membre d'une catégorie prescrite de médecins.

31 (1) Le sous-alinéa 47 (1) b) (ii) de la Loi est modifié par remplacement de «six semaines» par «12 semaines».

(2) L'article 47 de la Loi est modifié par adjonction du paragraphe suivant :

Disposition transitoire

(1.1) Malgré l'alinéa (1) b), si une employée qui n'a pas droit à un congé parental commence son congé de maternité avant le 1^{er} janvier 2018, son congé de maternité prend fin le dernier en date des jours suivants :

- a) 17 semaines après le début du congé de maternité;
- b) six semaines après la naissance, la mortinaissance ou la fausse couche.

32 (1) Le paragraphe 48 (2) de la Loi est modifié par remplacement de «52 semaines» par «78 semaines».

(2) L'article 48 de la Loi est modifié par adjonction du paragraphe suivant :**Disposition transitoire**

(2.1) Malgré le paragraphe (2), l'employé ne peut commencer un congé parental plus de 52 semaines après le jour de la naissance de l'enfant ou de sa venue sous sa garde, ses soins et sa surveillance pour la première fois si ce jour tombe avant le jour de l'entrée en vigueur du paragraphe 32 (2) de l'annexe I de la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois*.

33 (1) Le paragraphe 49 (1) de la Loi est modifié par remplacement de «35 semaines» par «61 semaines» et par remplacement de «37 semaines» par «63 semaines».

(2) L'article 49 de la Loi est modifié par adjonction du paragraphe suivant :**Disposition transitoire**

(1.1) Malgré le paragraphe (1), si l'enfant à l'égard duquel l'employé prend un congé parental est né ou est venu sous sa garde, ses soins et sa surveillance pour la première fois avant le jour de l'entrée en vigueur du paragraphe 33 (2) de l'annexe I de la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois*, le congé parental de l'employé prend fin :

- a) 35 semaines après son début, si l'employé a également pris un congé de maternité;
- b) 37 semaines après son début, dans les autres cas.

34 (1) La définition de «praticien de la santé qualifié» au paragraphe 49.1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«praticien de la santé qualifié» S'entend de l'une ou l'autre des personnes suivantes :

- a) une personne ayant qualité pour exercer à titre de médecin en vertu des lois du territoire où des soins ou des traitements sont prodigués à un particulier visé au paragraphe (3);
- b) une infirmière autorisée ou un infirmier autorisé titulaire d'un certificat d'inscription supérieur délivré sous le régime de la *Loi de 1991 sur les infirmières et infirmiers* ou un particulier ayant une qualification équivalente en vertu des lois du territoire où des soins ou des traitements sont prodigués à un particulier visé au paragraphe (3);
- c) dans les circonstances prescrites, un membre d'une catégorie prescrite de praticiens de la santé.

(2) Les paragraphes 49.1 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :**Droit au congé**

(2) L'employé a droit à un congé non payé d'au plus 28 semaines afin d'offrir des soins ou du soutien à un particulier visé au paragraphe (3) si un praticien de la santé qualifié délivre un certificat attestant que ce particulier est gravement malade et que le risque de décès est important au cours d'une période de 26 semaines ou de la période plus courte qui est prescrite.

Champ d'application du par. (2)

(3) Le paragraphe (2) s'applique aux particuliers suivants :

1. Le conjoint de l'employé.
2. Le père ou la mère ou le père ou la mère par alliance de l'employé ou de son conjoint ou le père ou la mère de la famille d'accueil de l'un ou l'autre.
3. Un enfant ou un enfant par alliance de l'employé ou de son conjoint, ou un enfant placé en famille d'accueil chez l'un ou l'autre.
4. Un enfant qui est sous la tutelle de l'employé ou de son conjoint.
5. Un frère, un frère par alliance, une sœur ou une sœur par alliance de l'employé.
6. Un grand-parent, un grand-parent par alliance, un petit-enfant ou un petit-enfant par alliance de l'employé ou de son conjoint.
7. Un beau-frère, un beau-frère par alliance, une belle-sœur ou une belle-sœur par alliance de l'employé.
8. Un beau-fils ou une belle-fille de l'employé ou de son conjoint.
9. Un oncle ou une tante de l'employé ou de son conjoint.
10. Un neveu ou une nièce de l'employé ou de son conjoint.
11. Le conjoint du petit-enfant, de l'oncle, de la tante, du neveu ou de la nièce de l'employé.
12. Toute personne qui considère l'employé comme un membre de sa famille, pourvu que les conditions prescrites, le cas échéant, soient réunies.

13. Un particulier prescrit comme étant un membre de la famille pour l'application du présent article.

(3) Les paragraphes 49.1 (5) et (6) de la Loi sont abrogés et remplacés par ce qui suit :

Fin du congé

(5) L'employé ne peut poursuivre le congé qu'il a pris en vertu du présent article après le premier en date des jours suivants :

1. Le dernier jour de la semaine pendant laquelle décède le particulier visé au paragraphe (3).
2. Le dernier jour de la période de 52 semaines commençant le premier jour de la semaine pendant laquelle la période visée au paragraphe (2) commence.

Idem

(5.1) Il est entendu que, sous réserve du paragraphe (5), si la durée du congé qui a été pris est inférieure à 28 semaines, il n'est pas nécessaire qu'un praticien de la santé qualifié délivre un certificat supplémentaire en application du paragraphe (2) pour qu'un congé soit pris en vertu du présent article après la fin de la période visée au paragraphe (2).

Deux employés ou plus

(6) Si deux employés ou plus prennent un congé en vertu du présent article à l'égard d'un particulier donné, la durée totale des congés pris par tous les employés ne doit pas dépasser 28 semaines pendant la période de 52 semaines visée à la disposition 2 du paragraphe (5) qui s'applique au premier certificat délivré pour l'application du présent article.

(4) Les paragraphes 49.1 (11) et (12) de la Loi sont abrogés et remplacés par ce qui suit :

Autre congé

(11) Si le particulier visé au paragraphe (3) ne décède pas pendant la période de 52 semaines visée à la disposition 2 du paragraphe (5), l'employé qui a pris un congé en vertu du présent article peut en prendre un autre conformément au même article. À cette fin, la mention au paragraphe (6) du «premier certificat» vaut mention du premier certificat délivré après la fin de cette période.

Droit aux congés prévus aux art. 49.3, 49.4, 49.5, 49.6, 49.7 et 50

(12) Le droit d'un employé au congé prévu au présent article s'ajoute à tout droit aux congés prévus aux articles 49.3, 49.4, 49.5, 49.6, 49.7 et 50.

Disposition transitoire

(13) Si le certificat visé au paragraphe (2) a été délivré avant le 1^{er} janvier 2018, le présent article, dans sa version antérieure au 1^{er} janvier 2018, s'applique.

35 (1) L'article 49.3 de la Loi est modifié par adjonction du paragraphe suivant :

Congé réputé être une semaine complète

(7.1) En ce qui concerne le droit de l'employé prévu au paragraphe (4), si l'employé prend moins d'une semaine de congé, l'employeur peut considérer qu'il a pris une semaine de congé complète.

(2) Le paragraphe 49.3 (9) de la Loi est modifié par remplacement de «49.5 et 50» par «49.5, 49.6, 49.7 et 50».

36 L'intertitre qui précède immédiatement l'article 49.4 et l'article 49.4 de la Loi sont abrogés et remplacés par ce qui suit :

CONGÉ EN CAS DE MALADIE GRAVE

Congé en cas de maladie grave

Définitions

49.4 (1) Les définitions qui suivent s'appliquent au présent article.

«adulte» Particulier âgé de 18 ans ou plus. («adult»)

«enfant mineur» Particulier âgé de moins de 18 ans. («minor child»)

«gravement malade» Relativement à un enfant mineur ou à un adulte, s'entend d'un enfant mineur ou d'un adulte dont l'état de santé habituel a subi un changement important et dont la vie se trouve en danger en raison d'une maladie ou d'une blessure. («critically ill»)

«membre de la famille» À l'égard d'un employé, s'entend des personnes suivantes :

1. Le conjoint de l'employé.
2. Le père ou la mère ou le père ou la mère par alliance de l'employé ou de son conjoint ou le père ou la mère de la famille d'accueil de l'un ou l'autre.

3. Un enfant ou un enfant par alliance de l'employé ou de son conjoint, ou un enfant placé en famille d'accueil chez l'un ou l'autre.
4. Un enfant qui est sous la tutelle de l'employé ou de son conjoint.
5. Un frère, un frère par alliance, une soeur ou une soeur par alliance de l'employé.
6. Un grand-parent, un grand-parent par alliance, un petit-enfant ou un petit-enfant par alliance de l'employé ou de son conjoint.
7. Un beau-frère, un beau-frère par alliance, une belle-soeur ou une belle-soeur par alliance de l'employé.
8. Un beau-fils ou une belle-fille de l'employé ou de son conjoint.
9. Un oncle ou une tante de l'employé ou de son conjoint.
10. Un neveu ou une nièce de l'employé ou de son conjoint.
11. Le conjoint du petit-enfant, de l'oncle, de la tante, du neveu ou de la nièce de l'employé.
12. Toute personne qui considère l'employé comme un membre de sa famille, pourvu que les conditions prescrites, le cas échéant, soient réunies.
13. Un particulier prescrit comme étant un membre de la famille pour l'application de la présente définition. («family member»)

«praticien de la santé qualifié» S'entend :

- a) d'une personne ayant qualité pour exercer à titre de médecin, d'infirmière autorisée ou d'infirmier autorisé ou de psychologue en vertu des lois du territoire où des soins ou des traitements sont prodigués à un particulier visé au paragraphe (2) ou (5),
- b) dans les circonstances prescrites, d'un membre d'une catégorie prescrite de praticiens de la santé. («qualified health practitioner»)

«semaine» Période de sept jours consécutifs débutant le dimanche et se terminant le samedi. («week»)

Droit au congé : enfant mineur gravement malade

(2) L'employé qui est employé par son employeur sans interruption depuis au moins six mois a droit à un congé non payé afin d'offrir des soins ou du soutien à un enfant mineur gravement malade qui est un membre de la famille de l'employé si un praticien de la santé qualifié délivre un certificat :

- a) attestant que l'enfant mineur est un enfant mineur gravement malade et qu'il requiert les soins ou le soutien d'un ou de plusieurs membres de la famille;
- b) précisant la période pendant laquelle l'enfant mineur requiert les soins ou le soutien.

Idem

(3) Sous réserve du paragraphe (4), l'employé a le droit de prendre jusqu'à 37 semaines de congé, en vertu du présent article, afin d'offrir des soins ou du soutien à un enfant mineur gravement malade.

Idem : période de moins de 37 semaines

(4) Si le certificat visé au paragraphe (2) précise une période de moins de 37 semaines, l'employé n'a le droit de prendre un congé que pour le nombre de semaines que comprend la période précisée dans le certificat.

Droit au congé : adulte gravement malade

(5) L'employé qui est employé par son employeur sans interruption depuis au moins six mois a droit à un congé non payé afin d'offrir des soins ou du soutien à un adulte gravement malade qui est un membre de la famille de l'employé si un praticien de la santé qualifié délivre un certificat :

- a) attestant que l'adulte est un adulte gravement malade et qu'il requiert les soins ou le soutien d'un ou de plusieurs membres de la famille;
- b) précisant la période pendant laquelle l'adulte requiert les soins ou le soutien.

Idem

(6) Sous réserve du paragraphe (7), l'employé a le droit de prendre jusqu'à 17 semaines de congé, en vertu du présent article, afin d'offrir des soins ou du soutien à un adulte gravement malade.

Idem : période de moins de 17 semaines

(7) Si le certificat visé au paragraphe (5) précise une période de moins de 17 semaines, l'employé n'a le droit de prendre un congé que pour le nombre de semaines que comprend la période précisée dans le certificat.

Fin obligatoire du congé

(8) Sous réserve du paragraphe (9), le congé pris en vertu du présent article se termine au plus tard le dernier jour de la période précisée dans le certificat visé au paragraphe (2) ou (5).

Délai limitatif

(9) Si la période précisée dans le certificat visé au paragraphe (2) ou (5) est de 52 semaines ou plus, le congé se termine au plus tard le dernier jour de la période de 52 semaines qui commence le premier en date des jours suivants :

- a) le premier jour de la semaine au cours de laquelle est délivré le certificat;
- b) le premier jour de la semaine au cours de laquelle l'enfant mineur ou l'adulte à l'égard duquel a été délivré le certificat est tombé gravement malade.

Décès de l'enfant mineur ou de l'adulte

(10) Si un enfant mineur ou un adulte gravement malade décède pendant que l'employé est en congé en vertu du présent article, l'employé cesse d'avoir le droit d'être en congé en vertu du présent article le dernier jour de la semaine du décès de l'enfant mineur ou de l'adulte.

Durée totale du congé : enfant mineur gravement malade

(11) La durée totale du congé que peuvent prendre un ou plusieurs employés en vertu du présent article à l'égard du même enfant mineur gravement malade est de 37 semaines.

Durée totale du congé : adulte gravement malade

(12) La durée totale du congé que peuvent prendre un ou plusieurs employés en vertu du présent article à l'égard du même adulte gravement malade est de 17 semaines.

Restriction : enfant atteignant l'âge de 18 ans

(13) Si l'employé prend un congé à l'égard d'un enfant mineur gravement malade en vertu du paragraphe (2), l'employé ne peut prendre un congé à l'égard du même particulier en vertu du paragraphe (5) avant l'expiration de la période de 52 semaines prévue au paragraphe (9).

Autre congé : enfant mineur gravement malade

(14) Si un enfant mineur à l'égard duquel un employé a pris un congé en vertu du présent article reste gravement malade pendant que l'employé est en congé ou après son retour au travail, mais avant l'expiration de la période de 52 semaines prévue au paragraphe (9), l'employé a le droit de prolonger son congé ou de prendre un nouveau congé si les conditions suivantes sont réunies :

- a) un praticien de la santé qualifié délivre à l'égard de l'enfant mineur un certificat supplémentaire visé au paragraphe (2) qui précise une période différente pendant laquelle l'enfant mineur requiert des soins ou du soutien;
- b) le total de la durée du congé qui a été pris et de la durée du congé que l'employé prend en vertu du présent paragraphe ne dépasse pas 37 semaines;
- c) le congé se termine au plus tard le dernier jour de la période de 52 semaines prévue au paragraphe (9).

Autre congé : adulte gravement malade

(15) Si un adulte à l'égard duquel un employé a pris un congé en vertu du présent article reste gravement malade pendant que l'employé est en congé ou après son retour au travail, mais avant l'expiration de la période de 52 semaines prévue au paragraphe (9), l'employé a le droit de prolonger son congé ou de prendre un nouveau congé si les conditions suivantes sont réunies :

- a) un praticien de la santé qualifié délivre à l'égard de l'adulte un certificat supplémentaire visé au paragraphe (5) qui précise une période différente pendant laquelle l'adulte requiert des soins ou du soutien;
- b) le total de la durée du congé qui a été pris et de la durée du congé que l'employé prend en vertu du présent paragraphe ne dépasse pas 17 semaines;
- c) le congé se termine au plus tard le dernier jour de la période de 52 semaines prévue au paragraphe (9).

Congés supplémentaires

(16) Si un enfant mineur ou un adulte à l'égard duquel un employé prend un congé en vertu du présent article reste gravement malade après l'expiration de la période de 52 semaines prévue au paragraphe (9), l'employé a le droit de prendre un autre congé, et les exigences du présent article s'appliquent au nouveau congé.

Avis à l'employeur

(17) L'employé qui souhaite prendre un congé en vertu du présent article informe son employeur par écrit qu'il prendra un congé et lui fournit un plan écrit indiquant les semaines au cours desquelles il le fera.

Idem

(18) Si l'employé doit commencer un congé en vertu du présent article avant d'en avoir informé son employeur, il l'en informe par écrit le plus tôt possible après le début du congé et lui fournit un plan écrit indiquant les semaines au cours desquelles il prendra le congé.

Idem : changement par rapport au plan fourni

(19) L'employé peut prendre un congé à des dates autres que celles qu'il a indiquées dans le plan fourni en application du paragraphe (17) ou (18) si le changement de dates répond aux exigences du présent article et que l'une des conditions suivantes est remplie :

- a) l'employé en demande la permission par écrit à l'employeur et celui-ci la lui accorde par écrit;
- b) l'employé en donne à l'employeur un avis écrit raisonnable dans les circonstances.

Copie du certificat

(20) À la demande de l'employeur, l'employé lui fournit une copie du certificat visé au paragraphe (2) ou (5) ou à l'alinéa (14) a) ou (15) a) le plus tôt possible.

Droit aux congés prévus aux art. 49.1, 49.3, 49.5, 49.6, 49.7 et 50

(21) Le droit d'un employé au congé prévu au présent article s'ajoute à tout droit aux congés prévus aux articles 49.1, 49.3, 49.5, 49.6, 49.7 et 50.

Disposition transitoire

(22) Si le certificat visé au paragraphe (2) ou (12), dans leur version antérieure au jour de l'entrée en vigueur de l'article 36 de l'annexe 1 de la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois*, a été délivré avant ce jour, le présent article, dans sa version antérieure à ce jour, s'applique.

37 L'intertitre qui précède l'article 49.5 de la Loi est abrogé et remplacé par ce qui suit :

CONGÉ EN CAS DE DÉCÈS D'UN ENFANT

38 L'article 49.5 de la Loi est abrogé et remplacé par ce qui suit :

Congé en cas de décès d'un enfant**Définitions**

49.5 (1) Les définitions qui suivent s'appliquent au présent article.

«acte criminel» Toute infraction prévue au *Code criminel* (Canada), à l'exclusion d'une infraction prévue par les règlements pris en vertu de l'alinéa 209.4 f) du *Code canadien du travail* (Canada). («crime»)

«enfant» Enfant, enfant par alliance, enfant placé en famille d'accueil ou enfant sous tutelle qui est âgé de moins de 18 ans. («child»)

«semaine» Période de sept jours consécutifs débutant le dimanche et se terminant le samedi. («week»)

Droit au congé

(2) L'employé qui est employé par un employeur sans interruption depuis au moins six mois a droit à un congé non payé d'au plus 104 semaines si son enfant décède.

Exception

(3) L'employé n'a pas droit au congé prévu au présent article s'il est accusé d'un acte criminel se rapportant au décès de l'enfant ou si les circonstances permettent de tenir pour probable que l'enfant a pris part à un tel acte.

Une seule période de congé

(4) L'employé ne peut prendre le congé prévu au présent article qu'en une seule période.

Délai limitatif

(5) L'employé ne peut prendre un congé en vertu du présent article que pendant la période de 105 semaines qui commence la semaine du décès de l'enfant.

Durée totale du congé

(6) La durée totale du congé que peuvent prendre un ou plusieurs employés en vertu du présent article à l'égard du décès, ou des décès qui résultent du même événement, est de 104 semaines.

Avis à l'employeur

(7) L'employé qui souhaite prendre un congé en vertu du présent article en informe l'employeur par écrit et lui fournit un plan écrit indiquant les semaines au cours desquelles il prendra le congé.

Idem

(8) Si l'employé doit commencer un congé en vertu du présent article avant d'en avoir informé son employeur, il l'en informe par écrit le plus tôt possible après le début du congé et lui fournit un plan écrit indiquant les semaines au cours desquelles il prendra le congé.

Idem : changement de plan

(9) L'employé peut prendre un congé à des dates autres que celles qu'il a indiquées dans le plan fourni en application du paragraphe (7) ou (8) si le changement de dates répond aux exigences du présent article et que l'une des conditions suivantes est remplie :

- a) l'employé en demande la permission par écrit à l'employeur et celui-ci la lui accorde par écrit;
- b) l'employé en donne à l'employeur un préavis écrit de quatre semaines.

Preuve

(10) L'employeur peut exiger que l'employé qui prend un congé en vertu du présent article lui fournisse une preuve raisonnable dans les circonstances du fait qu'il y a droit.

Droit aux congés prévus aux art. 49.1, 49.3, 49.4, 49.6, 49.7 et 50

(11) Le droit d'un employé au congé prévu au présent article s'ajoute à tout droit aux congés prévus aux articles 49.1, 49.3, 49.4, 49.6, 49.7 et 50.

Disposition transitoire

(12) Si, le 31 décembre 2017, un employé était en congé pour décès ou disparition d'un enfant dans des circonstances criminelles au titre du présent article, dans sa version en vigueur ce jour-là, son droit au congé est maintenu conformément au présent article dans sa version en vigueur ce jour-là.

CONGÉ EN CAS DE DISPARITION D'UN ENFANT DANS DES CIRCONSTANCES CRIMINELLES**Congé en cas de disparition d'un enfant dans des circonstances criminelles****Définitions**

49.6 (1) Les définitions qui suivent s'appliquent au présent article.

«acte criminel» Toute infraction prévue au *Code criminel* (Canada), à l'exclusion d'une infraction prévue par les règlements pris en vertu de l'alinéa 209.4 f) du *Code canadien du travail* (Canada). («crime»)

«enfant» Enfant, enfant par alliance, enfant placé en famille d'accueil ou enfant sous tutelle qui est âgé de moins de 18 ans. («child»)

«semaine» Période de sept jours consécutifs débutant le dimanche et se terminant le samedi. («week»)

Droit au congé

(2) L'employé qui est employé par un employeur sans interruption depuis au moins six mois a droit à un congé non payé d'au plus 104 semaines si son enfant disparaît et que les circonstances de la disparition permettent de tenir pour probable qu'elle résulte de la perpétration d'un acte criminel.

Disposition transitoire

(3) Malgré le paragraphe (2), si la disparition a eu lieu avant le 1^{er} janvier 2018, l'employé a droit à un congé non payé conformément à l'article 49.5 dans sa version en vigueur le 31 décembre 2017.

Exception

(4) L'employé n'a pas droit au congé prévu au présent article s'il est accusé de l'acte criminel ou si les circonstances permettent de tenir pour probable que l'enfant a pris part à cet acte.

Changement des circonstances

(5) Si l'employé prend un congé en vertu du présent article et qu'un changement survient dans les circonstances qui permettraient de tenir pour probable que la disparition de son enfant résulte de la perpétration d'un acte criminel et qu'il ne semble plus probable que ce soit le cas, son droit au congé prend fin le jour où cela ne semble plus probable.

Enfant retrouvé

(6) Les règles suivantes s'appliquent si l'employé prend un congé en vertu du présent article et que l'enfant est retrouvé pendant la période de 104 semaines qui commence la semaine de sa disparition :

1. Si l'enfant est retrouvé vivant, l'employé a le droit de rester en congé en vertu du présent article pendant 14 jours après que l'enfant est retrouvé.

2. Si l'enfant est retrouvé mort, l'employé cesse d'avoir le droit d'être en congé en vertu du présent article à la fin de la semaine pendant laquelle l'enfant est retrouvé.

Idem

(7) Il est entendu que la disposition 2 du paragraphe (6) n'a pas d'incidence sur le droit de l'employé à un congé en cas de décès d'un enfant visé à l'article 49.5.

Une seule période de congé

(8) L'employé ne peut prendre le congé prévu au présent article qu'en une seule période.

Délai limitatif

(9) Sauf disposition contraire du paragraphe (8), l'employé ne peut prendre un congé en vertu du présent article que pendant la période de 105 semaines qui commence la semaine de la disparition de l'enfant.

Durée totale du congé

(10) La durée totale du congé que peuvent prendre un ou plusieurs employés en vertu du présent article à l'égard de la disparition, ou des disparitions qui résultent du même événement, est de 104 semaines.

Avis à l'employeur

(11) L'employé qui souhaite prendre un congé en vertu du présent article en informe l'employeur par écrit et lui fournit un plan écrit indiquant les semaines au cours desquelles il prendra le congé.

Idem

(12) Si l'employé doit commencer un congé en vertu du présent article avant d'en avoir informé son employeur, il l'en informe par écrit le plus tôt possible après le début du congé et lui fournit un plan écrit indiquant les semaines au cours desquelles il prendra le congé.

Idem : changement de plan

(13) L'employé peut prendre un congé à des dates autres que celles qu'il a indiquées dans le plan fourni en application du paragraphe (11) ou (12) si le changement de dates répond aux exigences du présent article et que l'une des conditions suivantes est remplie :

- a) l'employé en demande la permission par écrit à l'employeur et celui-ci la lui accorde par écrit;
- b) l'employé en donne à l'employeur un préavis écrit de quatre semaines.

Preuve

(14) L'employeur peut exiger que l'employé qui prend un congé en vertu du présent article lui fournisse une preuve raisonnable dans les circonstances du fait qu'il y a droit.

Droit aux congés prévus aux art. 49.1, 49.3, 49.4, 49.5, 49.7 et 50

(15) Le droit d'un employé au congé prévu au présent article s'ajoute à tout droit aux congés prévus aux articles 49.1, 49.3, 49.4, 49.5, 49.7 et 50.

CONGÉ EN CAS DE VIOLENCE FAMILIALE OU SEXUELLE**Congé en cas de violence familiale ou sexuelle****Définitions**

49.7 (1) Les définitions qui suivent s'appliquent au présent article.

«enfant» Enfant, enfant par alliance, enfant placé en famille d'accueil ou enfant sous tutelle qui est âgé de moins de 18 ans. («child»)

«semaine» Période de sept jours consécutifs débutant le dimanche et se terminant le samedi. («week»)

Droit au congé

(2) L'employé qui est employé par un employeur sans interruption depuis au moins 13 semaines a droit à un congé si lui-même ou son enfant subit de la violence familiale ou sexuelle, ou la menace d'une telle violence, et qu'il prend le congé pour un ou plusieurs des motifs suivants :

1. Obtenir des soins médicaux pour lui-même ou un de ses enfants à l'égard d'une blessure ou d'une incapacité de nature physique ou psychologique, causée par la violence familiale ou sexuelle.
2. Obtenir les services d'un organisme offrant des services aux victimes pour lui-même ou un de ses enfants.
3. Obtenir du counseling psychologique ou d'autres consultations professionnelles pour lui-même ou un de ses enfants.
4. Déménager de façon temporaire ou permanente.

5. Obtenir des services juridiques ou d'application de la loi, y compris se préparer en vue d'instances judiciaires civiles ou criminelles liées à la violence familiale ou sexuelle ou en découlant, ou participer à de telles instances.
6. Tout autre motif prescrit.

Exception

(3) Le paragraphe (2) ne s'applique pas si l'acte de violence familiale ou sexuelle est commis par l'employé.

Durée du congé

(4) L'employé a le droit de prendre chaque année civile :

- a) jusqu'à 10 jours de congé en vertu du présent article;
- b) jusqu'à 15 semaines de congé en vertu du présent article.

Droit à un congé payé

(5) S'il prend un congé en vertu du présent article, l'employé a le droit, chaque année civile, de prendre les cinq premiers jours de ce congé comme jours de congé payé et le reste des jours de congé auxquels il a droit en vertu du présent article comme jours de congé non payé.

Indemnité de congé en cas de violence familiale ou sexuelle

(6) Sous réserve des paragraphes (7) et (8), si l'employé prend un jour de congé payé en vertu du présent article, l'employeur lui verse :

- a) soit l'un ou l'autre :
 - (i) du salaire qu'il aurait gagné s'il n'avait pas pris le congé,
 - (ii) s'il touche un salaire au rendement, y compris des commissions ou un taux à la pièce, du plus élevé de son taux horaire, s'il en a un, et du salaire minimum applicable pour le nombre d'heures qu'il aurait travaillées s'il n'avait pas pris le congé;
- b) soit la somme obtenue en utilisant l'autre mode de calcul prescrit, le cas échéant.

Congé en cas de violence familiale ou sexuelle pris à une période donnant droit à un salaire plus élevé

(7) Si un jour de congé payé visé au présent article coïncide avec un jour ou un moment de la journée où l'employeur aurait à verser une rémunération des heures supplémentaires, une prime de quart ou les deux :

- a) l'employé n'a pas droit à plus que son taux horaire normal pour tout congé pris en vertu du présent article;
- b) l'employé n'a pas droit à la prime de quart pour tout congé pris en vertu du présent article.

Congé en cas de violence familiale ou sexuelle pris un jour férié

(8) Si un jour de congé payé visé au présent article coïncide avec un jour férié, l'employé n'a pas droit à un salaire majoré pour tout congé pris en vertu du présent article.

Congé réputé être un jour complet

(9) En ce qui concerne le droit de l'employé prévu à l'alinéa (4) a), si l'employé prend moins d'une journée de congé, l'employeur peut considérer qu'il a pris un jour de congé complet ce jour-là.

Avis à l'employeur

(10) L'employé qui souhaite prendre un congé en vertu de l'alinéa (4) a) en informe l'employeur.

Idem

(11) Si l'employé doit commencer un congé en vertu de l'alinéa (4) a) avant d'en avoir informé son employeur, il l'en informe le plus tôt possible après le début du congé.

Congé réputé être une semaine complète

(12) En ce qui concerne le droit de l'employé prévu à l'alinéa (4) b), si l'employé prend moins d'une semaine de congé, l'employeur peut considérer qu'il a pris une semaine de congé complète.

Avis à l'employeur

(13) L'employé qui souhaite prendre un congé en vertu de l'alinéa (4) b) en informe l'employeur par écrit.

Idem

(14) Si l'employé doit commencer un congé en vertu de l'alinéa (4) b) avant d'en avoir informé son employeur, il l'en informe par écrit le plus tôt possible après le début du congé.

Preuve

(15) L'employeur peut exiger que l'employé qui prend un congé en vertu du présent article lui fournisse une preuve raisonnable dans les circonstances du fait qu'il y a droit.

Droit aux congés prévus aux art. 49.1, 49.3, 49.4, 49.5, 49.6 et 50

(16) Le droit d'un employé au congé prévu au présent article s'ajoute à tout droit aux congés prévus aux articles 49.1, 49.3, 49.4, 49.5, 49.6 et 50.

Confidentialité

(17) L'employeur veille à ce que des mécanismes soient en place afin d'assurer le caractère confidentiel des dossiers remis à l'employeur ou produits par celui-ci concernant un employé qui prend un congé en vertu du présent article.

Divulgence permise

(18) Le paragraphe (17) n'a pas pour effet d'empêcher l'employeur de divulguer un dossier si, selon le cas :

- a) l'employé a consenti à la divulgation du dossier;
- b) la divulgation est faite au dirigeant, à l'employé, à l'expert-conseil ou au représentant de l'employeur à qui ce dossier est nécessaire dans l'exercice de ses fonctions;
- c) la divulgation est autorisée ou exigée par la loi;
- d) la divulgation est prescrite comme divulgation permise.

39 (1) L'article 50 de la Loi est modifié par adjonction du paragraphe suivant :**Définition**

(0.1) La définition qui suit s'applique au présent article.

«praticien de la santé qualifié» S'entend :

- a) d'une personne ayant qualité pour exercer à titre de médecin, d'infirmière autorisée ou d'infirmier autorisé ou de psychologue en vertu des lois du territoire où des soins ou des traitements sont prodigués à l'employé ou à un particulier visé au paragraphe (2);
- b) dans les circonstances prescrites, d'un membre d'une catégorie prescrite de praticiens de la santé.

(2) Le paragraphe 50 (1) de la Loi est abrogé et remplacé par ce qui suit :**Congé d'urgence personnelle**

(1) Tout employé a droit à un congé pour l'un ou l'autre des motifs suivants :

1. Une maladie, une blessure ou une urgence médicale personnelle.
2. Le décès, la maladie, une blessure ou une urgence médicale d'un particulier visé au paragraphe (2).
3. Une affaire urgente qui concerne un particulier visé au paragraphe (2).

(3) Les paragraphes 50 (5), (6) et (7) de la Loi sont abrogés et remplacés par ce qui suit :

Limite

(5) Sous réserve du paragraphe (6), l'employé a le droit de prendre au total deux jours de congé payé et huit jours de congé non payé par année civile en vertu du présent article.

Idem : droit à un congé payé

(6) Si l'employé est employé par un employeur depuis moins d'une semaine, les règles suivantes s'appliquent :

1. L'employé n'a pas droit au congé payé prévu au présent article.
2. Une fois que l'employé est employé par l'employeur depuis au moins une semaine, il a droit au congé payé prévu au paragraphe (5), et tout congé non payé qu'il a déjà pris au cours de l'année civile est imputé au total auquel il a droit en application de ce paragraphe.
3. Le paragraphe (8) ne s'applique pas à l'employé avant qu'il soit employé par l'employeur depuis au moins une semaine.

Congé réputé être un jour complet

(7) Si l'employé prend moins d'une journée comme congé payé ou non payé en vertu du présent article, l'employeur peut considérer qu'il a pris un jour complet de congé payé ou non payé ce jour-là, selon le cas, pour l'application du paragraphe (5) ou (6).

Congés payés pris en premier

(8) Les deux jours de congé payé doivent être pris au cours d'une année civile avant tout jour de congé non payé prévu au présent article.

Salaire pour congé d'urgence personnelle

(9) Sous réserve des paragraphes (10) et (11), si l'employé prend un jour de congé payé en vertu du présent article, l'employeur lui verse :

- a) soit l'un ou l'autre :
 - (i) du salaire qu'il aurait gagné s'il n'avait pas pris le congé,
 - (ii) s'il touche un salaire au rendement, y compris des commissions ou un taux à la pièce, du plus élevé de son taux horaire, s'il en a un, et du salaire minimum applicable pour le nombre d'heures qu'il aurait travaillées s'il n'avait pas pris le congé;
- b) soit la somme obtenue en utilisant l'autre mode de calcul prescrit, le cas échéant.

Congé d'urgence personnelle pris à une période donnant droit à un salaire plus élevé

(10) Si un jour de congé payé visé au présent article coïncide avec un jour ou un moment de la journée où l'employeur aurait à verser une rémunération des heures supplémentaires, une prime de quart ou les deux :

- a) l'employé n'a pas droit à plus que son taux horaire normal pour tout congé pris en vertu du présent article;
- b) l'employé n'a pas droit à la prime de quart pour tout congé pris en vertu du présent article.

Congé d'urgence personnelle pris un jour férié

(11) Si un jour de congé payé visé au présent article coïncide avec un jour férié, l'employé n'a pas droit à un salaire majoré pour tout congé pris en vertu du présent article.

Preuve

(12) Sous réserve du paragraphe (13), l'employeur peut exiger que l'employé qui prend un congé en vertu du présent article lui fournisse une preuve raisonnable dans les circonstances du fait qu'il y a droit.

Idem

(13) L'employeur ne doit pas exiger que l'employé lui fournisse un certificat délivré par un praticien de la santé qualifié comme preuve visée au paragraphe (12).

40 La version française du paragraphe 73 (3) de la Loi est modifiée par remplacement de «son poste» par «son quart».

41 L'alinéa 74 (1) a) de la Loi est modifié par adjonction des sous-alinéas suivants :

- (v.1) s'informe du taux versé à un autre employé afin d'établir si l'employeur se conforme à la partie XII (À travail égal, salaire égal) ou d'aider une autre personne à le faire,
- (v.2) divulgue son taux de salaire à un autre employé afin d'établir si l'employeur se conforme à la partie XII (À travail égal, salaire égal) ou d'aider une autre personne à le faire,

42 L'article 74.1 de la Loi est abrogé.

43 Le paragraphe 74.4.1 (1) de la Loi est abrogé et remplacé par ce qui suit :

Obligation pour l'agence de tenir des dossiers sur le travail effectué pour ses clients : licenciement

(1) En plus des renseignements que l'employeur est tenu de consigner en application de la partie VI, l'agence de placement temporaire :

- a) consigne le nombre d'heures de travail que chaque employé ponctuel a effectuées par jour et par semaine pour chaque client de l'agence;
- b) conserve une copie de tout préavis écrit donné à un employé ponctuel en application du paragraphe 74.10.1 (1).

44 La Loi est modifiée par adjonction de l'article suivant :

Mise à fin de l'affectation

74.10.1 (1) L'agence de placement temporaire donne à l'employé ponctuel un préavis écrit d'une semaine ou lui verse une indemnité tenant lieu de préavis si :

- a) l'employé ponctuel est affecté à l'exécution d'un travail pour un client;
- b) la durée estimative de l'affectation était d'au moins trois mois au moment où elle a été offerte à l'employé;
- c) il est mis fin à l'affectation avant la fin de sa durée estimative.

Montant de l'«indemnité tenant lieu de préavis»

(2) Pour l'application du paragraphe (1), l'indemnité tenant lieu de préavis correspond au salaire auquel l'employé ponctuel aurait eu droit si un préavis d'une semaine lui avait été donné conformément à ce paragraphe.

Exception

(3) Le paragraphe (1) ne s'applique pas si l'agence de placement temporaire offre à l'employé ponctuel, pendant la période de préavis, une affectation de travail chez un client qui est raisonnable dans les circonstances et dont la durée estimative est d'au moins une semaine.

Idem

(4) Le paragraphe (1) ne s'applique pas si :

- a) l'employé ponctuel est coupable d'un acte d'inconduite délibérée, d'indiscipline ou de négligence volontaire dans l'exercice de ses fonctions qui n'est pas frivole et que l'agence de placement temporaire ou le client n'a pas toléré;
- b) l'affectation est devenue impossible à exécuter, ou est autrement inexécutable, en raison d'un cas fortuit ou d'un événement ou de circonstances imprévisibles;
- c) il est mis fin à l'affectation pendant une grève ou un lock-out survenu à l'emplacement de l'affectation ou par suite de l'un ou de l'autre.

45 L'alinéa 74.12 (1) a) de la Loi est modifié par adjonction des sous-alinéas suivants :

- (v.1) s'informe du taux versé à un employé du client afin d'établir si l'agence de placement temporaire se conforme à la partie XII (À travail égal, salaire égal) ou d'aider une autre personne à le faire,
- (v.2) divulgue son taux de salaire à un employé du client afin d'établir si l'agence de placement temporaire se conforme à la partie XII (À travail égal, salaire égal) ou d'aider une autre personne à le faire,
- (v.3) divulgue le taux de salaire versé à un employé du client à son agence de placement temporaire afin d'établir si l'agence de placement temporaire se conforme à la partie XII (À travail égal, salaire égal) ou d'aider une autre personne à le faire,

46 L'article 74.12.1 de la Loi est abrogé.**47 Le paragraphe 74.14 (1) de la Loi est modifié par adjonction de l'alinéa suivant :**

- a.1) ordonner à l'agence de rembourser le montant des frais à l'employé ponctuel ou à l'employé ponctuel éventuel;

48 Le paragraphe 74.16 (2) de la Loi est abrogé et remplacé par ce qui suit :**Conditions des ordonnances**

(2) Toute ordonnance prise en vertu du présent article qui exige qu'une agence de placement temporaire indemnise un employé ponctuel ou un employé ponctuel éventuel exige également que l'agence :

- a) soit verse au directeur, en fiducie, à la fois :
 - (i) le montant de l'indemnité,
 - (ii) des frais d'administration soit de 100 \$ soit, si cette somme est plus élevée, de 10 % du montant de l'indemnité;
- b) soit verse le montant de l'indemnité à l'employé ponctuel ou à l'employé ponctuel éventuel.

49 Le paragraphe 74.17 (2) de la Loi est abrogé et remplacé par ce qui suit :**Conditions des ordonnances**

(2) Toute ordonnance prise en vertu du présent article qui exige que le client indemnise un employé ponctuel exige également que le client :

- a) soit verse au directeur, en fiducie, à la fois :
 - (i) le montant de l'indemnité,
 - (ii) des frais d'administration soit de 100 \$ soit, si cette somme est plus élevée, de 10 % du montant de l'indemnité;
- b) soit verse le montant de l'indemnité à l'employé ponctuel.

50 Le paragraphe 81 (8) de la Loi est abrogé.**51 Le paragraphe 88 (5) de la Loi est abrogé et remplacé par ce qui suit :****Intérêts**

(5) Le directeur peut, avec l'approbation du ministre, fixer les taux d'intérêt et le mode de calcul des intérêts pour les sommes suivantes :

- a) les sommes dues en application de différentes dispositions de la présente loi ou des règlements;
- b) les sommes que le directeur détient en fiducie.

52 La Loi est modifiée par adjonction des articles suivants :

Reconnaissance des employeurs

88.2 (1) Le directeur peut reconnaître un employeur sur demande, si celui-ci le convainc qu'il remplit les critères prescrits.

Catégories d'employeurs

(2) Il est entendu que les critères visés au paragraphe (1) peuvent être prescrits pour des catégories différentes d'employeurs.

Renseignements concernant la reconnaissance

(3) Le directeur peut exiger que l'employeur qui demande à être reconnu en vertu du paragraphe (1) ou qui l'est lui fournisse tout renseignement, dossier ou compte qu'il exige à ce propos et il peut effectuer les enquêtes et les examens qu'il estime nécessaires.

Publication

(4) Le directeur peut mettre à la disposition du public, notamment en les publiant, les renseignements concernant les employeurs qui sont reconnus en vertu du paragraphe (1), y compris leur nom.

Validité de la reconnaissance

(5) Le fait d'être reconnu en vertu du paragraphe (1) est valide pendant la période que le directeur précise dans l'acte de reconnaissance.

Révocation ou modification

(6) Le directeur peut révoquer ou modifier l'acte de reconnaissance.

Délégation des pouvoirs prévus à l'art. 88.2

88.3 (1) Le directeur peut, oralement ou par écrit, autoriser un particulier employé dans le ministère à exercer les pouvoirs que lui confère l'article 88.2.

Pouvoirs résiduels

(2) Le directeur peut exercer un pouvoir que lui confère l'article 88.2 même s'il l'a délégué à un particulier en vertu du paragraphe (1).

Obligation de respecter les politiques

(3) Le particulier visé par l'autorisation du directeur prévue au paragraphe (1) respecte les politiques qu'établit celui-ci en vertu du paragraphe 88 (2).

53 L'article 96.1 de la Loi est abrogé.

54 Le paragraphe 103 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

- a.1) ordonner à l'employeur de verser le salaire à l'employé;

55 Le paragraphe 104 (3) de la Loi est abrogé et remplacé par ce qui suit :

Conditions des ordonnances

(3) Toute ordonnance prise en vertu du présent article qui exige qu'une personne indemnise un employé exige également que la personne :

- a) soit verse au directeur, en fiducie, à la fois :
 - (i) le montant de l'indemnité,
 - (ii) des frais d'administration soit de 100 \$ soit, si cette somme est plus élevée, de 10 % du montant de l'indemnité;
- b) soit verse le montant de l'indemnité à l'employé.

56 Le paragraphe 105 (1) de la Loi est abrogé et remplacé par ce qui suit :

Employé introuvable

(1) Si l'agent des normes d'emploi a pris des arrangements avec l'employeur pour que celui-ci verse le salaire à l'employé en vertu de l'alinéa 103 (1) a) ou lui a ordonné de le faire en vertu de l'alinéa 103 (1) a.1) et que l'employeur n'arrive pas à trouver l'employé malgré des efforts raisonnables, l'employeur verse le salaire au directeur en fiducie.

57 Les dispositions 1 et 2 du paragraphe 108 (4) de la Loi sont modifiées par suppression de «au sens de la partie XVIII.1» partout où figurent ces mots.

58 (1) Le paragraphe 112 (6) de la Loi est abrogé et remplacé par ce qui suit :

Frais d'administration et honoraires de l'agent de recouvrement

(6) Si la transaction touche une ordonnance de versement, le directeur a, malgré l'alinéa (1) c), droit à ce qui suit :

- a) le pourcentage des frais d'administration prévus par l'ordonnance qui correspond au pourcentage que représentent le salaire, les frais ou l'indemnité auxquels l'employé a droit en application de la transaction par rapport à ceux prévus par l'ordonnance;
- b) le pourcentage des honoraires et débours de l'agent de recouvrement ajoutés en application du paragraphe 128 (2) à la somme fixée dans l'ordonnance qui correspond au pourcentage que représentent le salaire, les frais ou l'indemnité auxquels l'employé a droit en application de la transaction par rapport à ceux prévus par l'ordonnance.

(2) Les dispositions 1 et 2 du paragraphe 112 (9) de la Loi sont modifiées par suppression de «au sens de la partie XVIII.1» partout où figurent ces mots.

59 (1) Le paragraphe 113 (1) de la Loi est abrogé et remplacé par ce qui suit :

Avis de contravention

(1) L'agent des normes d'emploi qui croit qu'une personne a contrevenu à une disposition de la présente loi peut lui délivrer un avis à cet effet dans lequel il précise le montant de la pénalité pour la contravention.

Montant de la pénalité

(1.1) Le montant de la pénalité est fixé conformément aux règlements.

Fourchette de pénalités

(1.2) Si une fourchette de pénalités a été prescrite pour une contravention, l'agent des normes d'emploi fixe le montant de la pénalité conformément aux critères prescrits, le cas échéant.

(2) L'article 113 de la Loi est modifié par adjonction des paragraphes suivants :

Publication : avis de contravention

(6.2) Le directeur peut mettre à la disposition du public, notamment en les publiant, le nom de la personne, y compris un particulier, qui est réputée, aux termes du paragraphe (5), avoir contrevenu à la présente loi après qu'un avis de contravention lui a été délivré, la qualification et la date de la contravention ainsi que la pénalité imposée à l'égard de celle-ci.

Publication sur Internet

(6.3) Le pouvoir de publication prévu au paragraphe (6.2) emporte le pouvoir de publication sur Internet.

Divulgaration

(6.4) Toute divulgation faite en vertu du paragraphe (6.2) est réputée être conforme à l'alinéa 42 (1) e) de la *Loi sur l'accès à l'information et la protection de la vie privée*.

60 Les dispositions 1 et 2 du paragraphe 114 (6) de la Loi sont modifiées par suppression de «au sens de la partie XVIII.1» partout où figurent ces mots.

61 Les dispositions 1 et 2 du paragraphe 115 (1.1) de la Loi sont modifiées par suppression de «au sens de la partie XVIII.1» partout où figurent ces mots.

62 L'article 115.1 de la Loi est modifié par suppression de «au sens de la partie XVIII.1» à la fin de l'article.

63 L'alinéa 120 (6) b) de la Loi est abrogé et remplacé par ce qui suit :

b) d'autre part, malgré l'alinéa (4) b), a droit à ce qui suit :

- (i) le pourcentage des frais d'administration prévus par l'ordonnance qui correspond au pourcentage que représentent le salaire, les frais ou l'indemnité auxquels l'employé a droit en application de la transaction par rapport à ceux prévus par l'ordonnance,
- (ii) le pourcentage des honoraires et débours de l'agent de recouvrement ajoutés en application du paragraphe 128 (2) à la somme fixée dans l'ordonnance qui correspond au pourcentage que représentent le salaire, les frais ou l'indemnité auxquels l'employé a droit en application de la transaction par rapport à ceux prévus par l'ordonnance.

64 Le paragraphe 125 (2) de la Loi est modifié par suppression de « au sens de la partie XVIII.1.»

65 La Loi est modifiée par adjonction des articles suivants :

Sûreté pour une somme due

125.1 Le directeur peut, s'il l'estime opportun, accepter une sûreté, sous la forme qu'il estime satisfaisante, pour le paiement des sommes dues en application de la présente loi.

Mandat

125.2 Si une ordonnance de versement a été rendue ou prise en vertu de la présente loi, le directeur peut décerner, à l'adresse du shérif d'un secteur dans lequel se trouve un bien quelconque de l'employeur, de l'administrateur ou de l'autre personne tenu au versement d'une somme en application de la présente loi, un mandat pour l'exécution du paiement des sommes suivantes, auquel cas ce mandat a la même valeur qu'un bref d'exécution délivré par la Cour supérieure de justice :

1. La somme dont l'ordonnance exige le versement par la personne, y compris les intérêts applicables.
2. Les frais et débours du shérif.

Privilège sur des biens immeubles

125.3 (1) Si une ordonnance de versement a été rendue ou prise en vertu de la présente loi, la somme dont l'ordonnance exige le versement par la personne, y compris les intérêts applicables, constitue, dès l'enregistrement par le directeur, au bureau d'enregistrement immobilier compétent, d'un avis de revendication du privilège et de la sûreté réelle accordés par le présent article, un privilège et une sûreté réelle grevant tout intérêt qu'a l'employeur, l'administrateur ou l'autre personne sur le bien immeuble visé dans l'avis.

Privilège sur des biens meubles

(2) Si une ordonnance de versement a été rendue ou prise en vertu de la présente loi, la somme dont l'ordonnance exige le versement par la personne, y compris les intérêts applicables, constitue, dès l'enregistrement par le directeur auprès du registrateur, aux termes de la *Loi sur les sûretés mobilières*, d'un avis de revendication du privilège et de la sûreté réelle accordés par le présent article, un privilège et une sûreté réelle grevant tout intérêt sur des biens meubles en Ontario qui, au moment de l'enregistrement, appartiennent à l'employeur, à l'administrateur ou à l'autre personne tenu au versement d'une somme ou sont détenus par eux ou qu'ils acquièrent par la suite.

Sommes comprises et priorité

(3) Le privilège et la sûreté réelle accordés par le paragraphe (1) ou (2) portent sur toutes les sommes dont l'ordonnance exige le versement par la personne, y compris les intérêts applicables, au moment de l'enregistrement de l'avis ou du renouvellement de celui-ci et sur toutes les sommes qu'elle est tenue de verser par la suite tant que l'avis demeure enregistré. Dès l'enregistrement d'un avis de privilège et de sûreté réelle, ce privilège et cette sûreté réelle ont priorité sur :

- a) une sûreté opposable enregistrée après l'enregistrement de l'avis;
- b) une sûreté rendue opposable par possession après l'enregistrement de l'avis;
- c) une réclamation, notamment une charge, qui est enregistrée à l'égard du bien de l'employeur, de l'administrateur ou de l'autre personne, ou qui survient et a une incidence sur celui-ci, après l'enregistrement de l'avis.

Exception

(4) Pour l'application du paragraphe (3), l'avis de privilège et de sûreté réelle visé au paragraphe (2) n'a pas priorité sur une sûreté en garantie du prix d'acquisition portant sur des biens grevés ou sur leur produit qui a été rendue opposable, et il est réputé être une sûreté rendue opposable par enregistrement aux fins des règles de priorité prévues à l'article 30 de la *Loi sur les sûretés mobilières*.

Prise d'effet du privilège

(5) L'avis de privilège et de sûreté réelle visé au paragraphe (2) prend effet au moment de son enregistrement par le registrateur et s'éteint le jour du cinquième anniversaire de l'enregistrement, sauf si un avis de renouvellement est enregistré conformément au présent article avant la fin de cette période de cinq ans, auquel cas le privilège et la sûreté réelle conservent leur effet pendant une autre période de cinq ans à partir de la date d'enregistrement de l'avis de renouvellement.

Idem

(6) Si une somme due aux termes de la présente loi est impayée à la fin de la période ou de son renouvellement visés au paragraphe (5), le directeur peut enregistrer un avis de renouvellement de privilège et de sûreté réelle. Ce privilège et cette sûreté réelle conservent leur effet pendant une période de cinq ans à partir de la date d'enregistrement de l'avis de renouvellement, jusqu'à ce que le montant soit payé en totalité, et sont réputés enregistrés de façon ininterrompue depuis l'enregistrement de l'avis initial de privilège et de sûreté réelle conformément au paragraphe (2).

Cas où la personne n'est pas le propriétaire inscrit

(7) Si l'employeur, l'administrateur ou l'autre personne tenu au versement d'une somme qui a un intérêt sur un bien immeuble n'est pas inscrit comme propriétaire de ce bien au bureau d'enregistrement immobilier compétent :

- a) l'avis qui doit être enregistré conformément au paragraphe (1) énonce l'intérêt qu'il ou elle a sur le bien immeuble;
- b) une copie de l'avis est envoyée au propriétaire inscrit, à l'adresse à laquelle le dernier avis d'évaluation prévu par la *Loi sur l'évaluation foncière* lui a été envoyé.

Créancier garanti

(8) En plus de ses autres droits et recours, si des sommes que doit un employeur, un administrateur ou une autre personne tenu au versement d'une somme sont impayées, le directeur, à l'égard d'un privilège et d'une sûreté réelle visés au paragraphe (2) :

- a) bénéficie de tous les droits et recours et remplit tous les devoirs d'un créancier garanti que prévoient les articles 17, 59, 61, 62, 63 et 64, les paragraphes 65 (4), (5), (6), (6.1) et (7) et l'article 66 de la *Loi sur les sûretés mobilières*;
- b) bénéficie d'une sûreté sur les biens grevés pour l'application de l'alinéa 63 (4) c) de cette loi;
- c) bénéficie d'une sûreté sur le bien meuble pour l'application des articles 15 et 16 de la *Loi sur le privilège des réparateurs et des entreposeurs*, s'il s'agit d'un article au sens de cette loi.

Enregistrement de documents

(9) Un avis de privilège et de sûreté réelle visé au paragraphe (2) ou un avis de renouvellement est rédigé sous forme d'un état de financement ou d'un état de modification du financement prescrit par la *Loi sur les sûretés mobilières* et peut être présenté à l'enregistrement en vertu de la partie IV de cette loi ou par envoi par la poste à une adresse prescrite par cette loi.

Erreurs dans des documents

(10) Une erreur ou une omission dans un avis de privilège et de sûreté réelle ou du renouvellement de celui-ci ou encore dans la passation ou l'enregistrement de l'avis n'a pas, par elle-même, pour effet de rendre cet avis nul ni d'en réduire les effets, sauf si l'erreur ou l'omission risque d'induire substantiellement en erreur une personne raisonnable.

Loi sur la faillite et l'insolvabilité (Canada)

(11) Sous réserve des droits de la Couronne prévus à l'article 87 de cette loi, le présent article n'a pas pour effet de porter atteinte ou de prétendre porter atteinte aux droits et obligations de quiconque visés par la *Loi sur la faillite et l'insolvabilité* (Canada).

Définition

(12) La définition qui suit s'applique au présent article.

«bien immeuble» S'entend en outre des accessoires fixes et de l'intérêt qu'a une personne en tant que locataire d'un bien immeuble.

66 (1) Le paragraphe 127 (2) de la Loi est modifié par remplacement de «les articles 125, 126 et 130» par «les articles 125, 125.1, 125.2, 125.3, 126 et 130».

(2) L'article 127 de la Loi est modifié par adjonction des paragraphes suivants :

Divulgation

(6) Le directeur peut divulguer ou permettre que soient divulgués des renseignements recueillis en vertu de la présente loi ou des règlements à un agent de recouvrement en vue du recouvrement d'une somme due en application de la présente loi.

Idem

(7) Toute divulgation de renseignements personnels faite en vertu du paragraphe (6) est réputée être conforme à l'alinéa 42 (1) d) de la *Loi sur l'accès à l'information et la protection de la vie privée*.

67 L'article 128 de la Loi est modifié par adjonction des paragraphes suivants :

Divulgation par un agent de recouvrement

(5) Un agent de recouvrement peut divulguer au directeur ou permettre que lui soient divulgués des renseignements recueillis en vertu de la présente loi ou des règlements en vue du recouvrement d'une somme due en application de la présente loi.

Idem

(6) Toute divulgation de renseignements personnels faite en vertu du paragraphe (5) est réputée être conforme à l'alinéa 42 (1) d) de la *Loi sur l'accès à l'information et la protection de la vie privée*.

68 Le paragraphe 133 (1) de la Loi est modifié par suppression de « , au sens de la partie XVIII.1. ».

69 (1) Le paragraphe 141 (1) de la Loi est modifié par adjonction de la disposition suivante :

1.1 Prescrire un mode de versement pour l'application de l'alinéa 11 (2) d) et assortir son utilisation de conditions ou de restrictions.

(2) La disposition 2.0.1 du paragraphe 141 (1) de la Loi est modifiée par remplacement de «visée à la sous-disposition 1 v du paragraphe 23.1 (1)» par «visée à la sous-disposition 1 v ou 2 v du paragraphe 23.1 (1)».

(3) La disposition 2.0.2 du paragraphe 141 (1) de la Loi est abrogée.

(4) Le paragraphe 141 (1) de la Loi est modifié par adjonction de la disposition suivante :

16.1 Régir les pénalités applicables aux contraventions pour l'application du paragraphe 113 (1).

(5) Les paragraphes 141 (2.0.3) et (2.0.4) de la Loi sont abrogés et remplacés par ce qui suit :

Règlements transitoires

(2.0.3) Le lieutenant-gouverneur en conseil peut, par règlement, traiter des questions transitoires qu'il estime nécessaires ou souhaitables pour la mise en oeuvre des modifications apportées par la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois*.

Incompatibilité avec les règlements transitoires

(2.0.4) En cas d'incompatibilité, les règlements pris en vertu du paragraphe (2.0.3) l'emportent sur la présente loi ou les règlements.

(6) Le paragraphe 141 (3.1) de la Loi est abrogé et remplacé par ce qui suit :

Règlements : partie XXII

(3.1) Les règlements pris en vertu de la disposition 16.1 du paragraphe (1) peuvent :

- a) fixer des pénalités différentes ou des fourchettes différentes de pénalités pour des genres différents de contraventions ou la méthode permettant d'établir ces pénalités ou fourchettes;
- b) préciser que des pénalités différentes, des fourchettes différentes ou des méthodes différentes permettant d'établir une pénalité ou fourchette s'appliquent aux contrevenants qui sont des particuliers et aux contrevenants qui sont des personnes morales;
- c) prescrire les critères dont un agent des normes d'emploi doit ou peut tenir compte lors de l'imposition d'une pénalité.

Loi de 2009 sur la protection des étrangers dans le cadre de l'emploi

70 (1) Le paragraphe 1 (2) de la *Loi de 2009 sur la protection des étrangers dans le cadre de l'emploi* est modifié par adjonction de la disposition suivante :

4. Il est entendu que la mention, à l'article 88 de cette loi, d'une somme due en application des dispositions de cette loi ou des règlements vaut mention d'une somme due en application des dispositions de la présente loi ou de ses règlements.

(2) Le paragraphe 4 (1) de la Loi est abrogé et remplacé par ce qui suit :

Personnes distinctes considérées comme un seul employeur

(1) Le paragraphe (2) s'applique si des activités ou des entreprises associées ou liées sont ou étaient exercées ou exploitées par l'employeur ou le recruteur et une ou plusieurs autres personnes ou par leur intermédiaire.

(3) Le paragraphe 24 (2) de la Loi est modifié par remplacement de «verser le montant des frais, en fiducie, au directeur des normes d'emploi» par «verser le montant des frais à l'étranger ou à la personne prescrite, ou au directeur des normes d'emploi en fiducie».

(4) Le paragraphe 24 (3) de la Loi est modifié par remplacement de «verser le montant des dépenses, en fiducie, au directeur des normes d'emploi» par «verser le montant des dépenses à l'étranger ou à la personne prescrite, ou au directeur des normes d'emploi en fiducie».

(5) Le paragraphe 27 (1) de la Loi est abrogé et remplacé par ce qui suit :

Avis de contravention

(1) L'agent des normes d'emploi qui croit qu'une personne a contrevenu à une disposition de la présente loi peut lui délivrer un avis à cet effet dans lequel il précise le montant de la pénalité applicable à la contravention.

Montant de la pénalité

(1.1) Le montant de la pénalité est fixé conformément aux règlements.

Fourchette de pénalités

(1.2) Si une fourchette de pénalités a été prescrite pour une contravention, l'agent des normes d'emploi fixe le montant de la pénalité conformément aux critères prescrits, le cas échéant.

(6) Le paragraphe 27 (4) de la Loi est modifié par remplacement de «pénalité prescrite» par «pénalité».

(7) L'article 27 de la Loi est modifié par adjonction des paragraphes suivants :

Publication : avis de contravention

(5) Le directeur des normes d'emploi peut mettre à la disposition du public, notamment en les publiant, le nom de la personne, y compris un particulier, qui est réputée, aux termes du paragraphe (3), avoir contrevenu à la présente loi après

qu'un avis de contravention lui a été délivré, la qualification et la date de la contravention ainsi que la pénalité imposée à l'égard de celle-ci.

Publication sur Internet

(6) Le pouvoir de publication prévu au paragraphe (5) emporte le pouvoir de publication sur Internet.

Divulgaration

(7) Toute divulgation faite en vertu du paragraphe (5) est réputée être conforme à l'alinéa 42 (1) e) de la *Loi sur l'accès à l'information et la protection de la vie privée*.

(8) Le paragraphe 50 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

e) régir les pénalités applicables aux contraventions pour l'application du paragraphe 27 (1).

(9) L'article 50 de la Loi est modifié par adjonction du paragraphe suivant :

Règlements relatifs aux pénalités applicables aux contraventions

(3) Les règlements pris en vertu de l'alinéa (1) e) peuvent :

- a) fixer des pénalités différentes ou des fourchettes différentes de pénalités pour des genres différents de contraventions ou la méthode permettant d'établir ces pénalités ou fourchettes;
- b) préciser que des pénalités différentes, des fourchettes différentes ou des méthodes différentes permettant d'établir une pénalité ou fourchette s'appliquent aux contrevenants qui sont des particuliers et aux contrevenants qui sont des personnes morales;
- c) prescrire les critères dont un agent des normes d'emploi doit ou peut tenir compte lors de l'imposition d'une pénalité.

Loi sur la santé et la sécurité au travail

71 (1) La disposition 3 de la définition de «travailleur» au paragraphe 1 (1) de la *Loi sur la santé et la sécurité au travail* est modifiée par remplacement de «une université ou un autre établissement postsecondaire» par «une université, un collège privé d'enseignement professionnel ou un autre établissement postsecondaire» à la fin de la disposition.

(2) La disposition 4 de la définition de «travailleur» au paragraphe 1 (1) de la Loi est abrogée.

Entrée en vigueur

72 (1) Sous réserve des paragraphes (2) à (5), la présente annexe entre en vigueur le 1^{er} janvier 2018.

(2) L'article 5 et le présent article entrent en vigueur le jour où la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois* reçoit la sanction royale.

(3) Le paragraphe 8 (7), les articles 32, 33 et 36 entrent en vigueur le dernier en date du 3 décembre 2017 et du jour où la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois* reçoit la sanction royale.

(4) Le paragraphe 1 (2) et les articles 25, 26, 27, 28, 29, 41 et 45 entrent en vigueur le 1^{er} avril 2018.

(5) Les paragraphes 2 (3), 8 (2) et (6), les articles 11 et 12 et le paragraphe 69 (3) entrent en vigueur le 1^{er} janvier 2019.

ANNEXE 2 LOI DE 1995 SUR LES RELATIONS DE TRAVAIL

1 La *Loi de 1995 sur les relations de travail* est modifiée par adjonction de l'article suivant après l'intertitre «Acquisition du droit à la négociation collective par l'accréditation» :

Requête en vue d'obtenir une liste des employés

6.1 (1) Si aucun syndicat n'a été accrédité comme agent négociateur pour les employés d'un même employeur compris dans une unité que le syndicat prétend appropriée pour négocier collectivement, et que les employés ne sont pas liés par une convention collective, un syndicat peut, par voie de requête, demander à la Commission de rendre une ordonnance enjoignant à l'employeur de fournir une liste de ses employés au syndicat.

Avis à l'employeur

(2) Le syndicat remet une copie de la requête présentée en vertu du paragraphe (1) à l'employeur dans le délai prévu par les règles établies par la Commission et, en l'absence de règles, au plus tard le jour où la requête est déposée auprès de la Commission.

Contenu de la requête

(3) La requête présentée en vertu du paragraphe (1) comprend ce qui suit :

- a) une description écrite de l'unité de négociation proposée, notamment une estimation du nombre de particuliers compris dans l'unité;
- b) une liste des noms des membres du syndicat compris dans l'unité de négociation proposée et une preuve de leur adhésion au syndicat, mais le syndicat ne doit pas fournir ces renseignements à l'employeur.

Avis de désaccord

(4) Si l'employeur n'est pas d'accord en ce qui concerne la description de l'unité de négociation proposée ou le nombre de particuliers compris dans l'unité qui est contenu dans la requête présentée en vertu du paragraphe (1), il peut, dans les deux jours, exception faite des samedis, des dimanches et des jours fériés, qui suivent le jour où il reçoit la requête, donner à la Commission un avis de désaccord.

Contenu de l'avis

(5) L'avis prévu au paragraphe (4) comprend ce qui suit :

- a) une déclaration qui, selon le cas :
 - (i) indique que l'employeur est d'accord en ce qui concerne la description de l'unité de négociation contenue dans la requête présentée en vertu du paragraphe (1), mais pas en ce qui concerne l'estimation du nombre de particuliers compris dans l'unité,
 - (ii) explique les raisons pour lesquelles l'employeur croit que la description de l'unité de négociation contenue dans la requête ne pourrait pas être appropriée pour négocier collectivement,
- b) une déclaration solennelle indiquant le nombre de particuliers compris dans l'unité de négociation décrite dans la requête présentée en vertu du paragraphe (1), si l'employeur n'est pas d'accord en ce qui concerne l'estimation du syndicat.

Décisions de la Commission en l'absence d'avis de désaccord

(6) Les règles suivantes s'appliquent si la Commission ne reçoit pas l'avis prévu au paragraphe (4) :

1. Si elle détermine que 20 % ou plus des particuliers compris dans l'unité de négociation proposée dans la requête prévue au paragraphe (1) semblent être membres du syndicat au moment du dépôt de la requête, la Commission ordonne à l'employeur de fournir la liste au syndicat.
2. Si elle détermine que moins de 20 % des particuliers compris dans l'unité de négociation proposée dans la requête présentée en vertu du paragraphe (1) semblent être membres du syndicat au moment du dépôt de la requête, la Commission rejette la requête.

Idem : avis de désaccord

(7) Les règles suivantes s'appliquent si la Commission reçoit l'avis prévu au paragraphe (4) :

1. La Commission détermine si la description de l'unité de négociation contenue dans la requête prévue au paragraphe (1) pourrait être appropriée pour négocier collectivement. Sa décision ne doit être fondée que sur cette description et sur l'avis donné en vertu du paragraphe (4).
2. Si elle détermine que la description de l'unité de négociation contenue dans la requête prévue au paragraphe (1) ne pourrait pas être appropriée pour négocier collectivement, la Commission rejette la requête.

3. Si elle détermine que la description de l'unité de négociation contenue dans la requête présentée en vertu du paragraphe (1) pourrait être appropriée pour négocier collectivement, la Commission détermine le nombre estimatif de particuliers compris dans l'unité décrite dans la requête.
4. Après avoir déterminé le nombre estimatif de particuliers compris dans l'unité, la Commission détermine le pourcentage des particuliers compris dans l'unité de négociation qui semblent être membres du syndicat au moment du dépôt de la requête présentée en vertu du paragraphe (1).
5. Si le pourcentage déterminé aux termes de la disposition 4 est inférieur à 20 %, la Commission rejette la requête.
6. Si le pourcentage déterminé aux termes de la disposition 4 est de 20 % ou plus, la Commission ordonne à l'employeur de fournir une liste de ses employés au syndicat.

Audience ou consultation non obligatoires

(8) La Commission n'est pas obligée de tenir une audience ni de consulter les parties lorsqu'elle rend une décision aux termes du paragraphe (7) et elle peut rendre la décision visée à la disposition 3 ou 4 du paragraphe (7) uniquement sur la foi des renseignements fournis dans la requête présentée en vertu du paragraphe (1) et l'avis prévu au paragraphe (4).

Contenu obligatoire de la liste des employés

(9) Si la Commission ordonne à l'employeur de fournir une liste de ses employés au syndicat en application du paragraphe (6) ou (7), la liste comprend ce qui suit :

- a) le nom de chaque employé compris dans l'unité de négociation proposée;
- b) le numéro de téléphone et l'adresse électronique personnelle de chaque employé compris dans l'unité de négociation proposée, s'il a fourni ces renseignements à l'employeur.

Contenu discrétionnaire de la liste des employés

(10) Si elle estime qu'il est équitable de le faire dans les circonstances, la Commission peut ordonner que la liste comprenne également ce qui suit :

- a) d'autres renseignements concernant l'employé, notamment le titre de son poste et son adresse professionnelle;
- b) tout autre moyen de communiquer avec l'employé que celui-ci a indiqué à l'employeur, à l'exception d'une adresse domiciliaire.

Sécurité et caractère confidentiel de la liste des employés

(11) Si la Commission ordonne à l'employeur de fournir une liste de ses employés au syndicat en application du paragraphe (6) ou (7), l'employeur veille à ce que toutes les mesures raisonnables soient prises pour protéger la sécurité et le caractère confidentiel de la liste, notamment pendant sa création, sa compilation, son entreposage, sa manutention, son transport, son transfert et sa transmission.

Restriction : utilisation des renseignements inclus dans la liste

(12) Si la liste des employés de l'employeur est fournie au syndicat conformément à ce qu'a ordonné la Commission en application du paragraphe (6) ou (7), son utilisation est assujettie aux conditions et aux restrictions suivantes :

1. La liste ne doit être utilisée que par le syndicat dans le cadre d'une campagne d'acquisition du droit à la négociation collective.
2. La liste doit demeurer confidentielle et ne doit être divulguée à personne d'autre qu'aux dirigeants compétents du syndicat.
3. Le syndicat veille à ce que toutes les mesures raisonnables soient prises pour protéger la sécurité et le caractère confidentiel de la liste et en empêcher l'accès non autorisé.
4. Si le syndicat présente une requête en accreditat[i]on à l'égard de l'employeur et des employés inscrits sur la liste et que sa requête est rejetée moins d'un an après l'ordonnance de la Commission de fournir la liste, cette dernière doit être détruite au plus tard le jour où la requête est rejetée.
5. Si la liste n'est pas détruite conformément à la disposition 4, elle doit l'être au plus tard le jour qui tombe un an après la date de l'ordonnance de la Commission de fournir la liste.

Destruction de la liste

(13) Pour l'application des dispositions 4 et 5 du paragraphe (12), la liste doit être détruite de façon à ne pas pouvoir être reconstituée ni récupérée.

Divulgaration réputée conforme aux lois sur l'accès à l'information

(14) Toute divulgation de renseignements personnels effectuée par l'employeur conformément à ce qu'a ordonné la Commission en application du paragraphe (6) ou (7) est réputée conforme à l'alinéa 42 (1) et de la Loi sur l'accès à l'information.

l'information et la protection de la vie privée et à l'alinéa 32 e) de la Loi sur l'accès à l'information municipale et la protection de la vie privée.

Requête en accréditation subséquente

(15) Lorsque l'employeur fournit une liste de ses employés au syndicat conformément à ce qu'a ordonné la Commission en application du paragraphe (6) ou (7), et que, dans l'année qui suit la date de l'ordonnance, le syndicat présente une requête en accréditation à l'égard de cet employeur et des employés inscrits sur la liste, si cette requête est rejetée, la Commission ne peut examiner aucune autre requête présentée en vertu du paragraphe (1) par n'importe quel syndicat à l'égard d'une unité de négociation proposée qui est identique ou essentiellement semblable à celle qui était décrite dans la requête initiale présentée en vertu du paragraphe (1) tant qu'il ne s'est pas écoulé un an après le rejet de celle-ci.

Effet de la décision

(16) Les décisions rendues par la Commission en vertu du présent article n'ont pas pour effet de restreindre sa capacité d'examiner les questions visées à l'article 7, 8, 8.1, 9 ou 10 ni de rendre des décisions les concernant.

Non-application à l'industrie de la construction

(17) Le présent article ne s'applique pas à l'égard d'un employeur au sens du paragraphe 126 (1).

2 Les paragraphes 11 (2), (3) et (4) de la Loi sont abrogés et remplacés par ce qui suit :

Idem

(2) Dans les circonstances visées au paragraphe (1), la Commission accrédite le syndicat comme agent négociateur des employés compris dans l'unité de négociation dont elle détermine qu'elle pourrait être appropriée pour négocier collectivement.

3 La Loi est modifiée par adjonction de l'article suivant :

Aucun congédiement ni mesure disciplinaire à la suite de l'accréditation

12.1 Si un syndicat est accrédité comme agent négociateur des employés compris dans une unité de négociation, l'employeur ne peut congédier un employé compris dans cette unité, ni prendre des mesures disciplinaires à son égard, sans motif valable au cours de la période qui commence le jour de l'accréditation et se termine le premier en date du jour de la conclusion de la première convention collective et du jour où le syndicat ne représente plus les employés compris dans l'unité de négociation.

4 La Loi est modifiée par adjonction des articles suivants :

Révision de la structure des unités de négociation : fusion après l'accréditation

15.1 (1) Si la Commission accrédite un syndicat ou un conseil de syndicats comme agent négociateur des employés compris dans une unité de négociation, elle peut réviser la structure des unités de négociation si les conditions suivantes sont réunies :

1. L'employeur, le syndicat ou le conseil de syndicats présente une requête en révision à la Commission au moment de la présentation de la requête en accréditation ou dans les trois mois qui suivent la date de l'accréditation.
2. Aucune convention collective n'a encore été conclue à l'égard de l'unité de négociation.
3. Le syndicat ou le conseil de syndicats qui est accrédité comme agent négociateur des employés compris dans l'unité de négociation représente déjà les employés de l'employeur compris dans une autre unité de négociation au même emplacement ou à un emplacement différent.

Idem

(2) Si la requête en révision visée au paragraphe (1) est présentée en même temps que la requête en accréditation, les requêtes peuvent être entendues ensemble, mais la Commission rend d'abord une décision à l'égard de la requête en accréditation.

Ententes entre les parties

(3) Dans le cas où la Commission réviser la structure des unités de négociation :

- a) elle doit donner aux parties la possibilité de s'entendre, dans le délai qu'elle juge raisonnable, sur la détermination des unités de négociation et le règlement des questions liées à sa révision;
- b) elle peut rendre les ordonnances qu'elle juge indiquées pour mettre en œuvre l'entente.

Ordonnances

(4) Si la Commission est d'avis que l'entente conclue par les parties ne permet pas d'établir des unités habiles à négocier collectivement ou si certaines questions ne sont pas réglées avant l'expiration du délai qu'elle juge raisonnable, il lui appartient de trancher toute question en suspens et de rendre les ordonnances qu'elle estime indiquées dans les circonstances.

Contenu des ordonnances

(5) Pour l'application du paragraphe (4), la Commission peut :

- a) fusionner l'unité de négociation pour laquelle le syndicat ou le conseil de syndicats a été accrédité avec une unité de négociation existante ou des unités de négociation composées d'employés de l'employeur qui sont représentés par le même syndicat ou le même conseil de syndicats;
- b) modifier l'ordonnance d'accréditation ou la description d'une unité de négociation dans une convention collective;
- c) ordonner que la convention collective entre l'employeur et le syndicat ou le conseil de syndicats qui s'appliquait à une unité de négociation existante qui est fusionnée en vertu de l'alinéa a) s'applique, avec ou sans modifications, à l'unité de négociation issue de la fusion;
- d) déclarer que l'employeur n'est plus lié par une convention collective qui s'appliquait à l'égard d'une unité de négociation existante avant la fusion;
- e) apporter les modifications qu'elle estime nécessaires aux dispositions de la convention collective qui portent sur la date d'expiration ou les droits d'ancienneté ou à toute autre disposition de même nature;
- f) si les conditions visées au paragraphe 79 (2) ont été remplies à l'égard de certains des employés d'une unité de négociation issue d'une fusion, décider quelles conditions de travail leur sont applicables jusqu'à ce que l'unité devienne régie par une convention collective ou jusqu'à ce que les conditions visées à ce paragraphe soient remplies à l'égard de cette unité;
- g) autoriser l'une des parties à donner à l'autre partie un avis de négociation collective.

Facteurs à prendre en considération

(6) Lorsqu'elle rend une décision à l'égard d'une requête en révision en vertu du paragraphe (1), la Commission prend en considération tous les facteurs qu'elle juge pertinents, en examinant notamment si la fusion des unités de négociations favoriserait à la fois :

- a) l'établissement de négociations collectives efficaces;
- b) le développement de la négociation collective dans l'industrie visée.

Pouvoir de réviser la structure des unités de négociation en cas d'entente

(7) L'employeur et un syndicat ou un conseil de syndicats qui représente les employés de l'employeur compris dans diverses unités de négociation au même endroit ou à un endroit différent peuvent, en tout temps, convenir par écrit de réviser la structure des unités de négociation.

Idem

(8) Malgré les paragraphes 58 (2), (3) et (5) et 59 (1), à la suite de la révision visée au paragraphe (7), les parties peuvent, avec l'assentiment de la Commission donné sur requête commune des parties :

- a) fusionner les unités de négociation;
- b) modifier la description d'une unité de négociation dans une convention collective;
- c) faire en sorte que la convention collective entre l'employeur et le syndicat ou le conseil de syndicats qui s'appliquait à une unité de négociation existante qui est fusionnée en vertu de l'alinéa a) s'applique, avec ou sans modifications, à l'unité de négociation issue de la fusion;
- d) mettre fin à l'application d'une convention collective qui s'appliquait à l'égard d'une unité de négociation existante avant la fusion;
- e) apporter des modifications aux dispositions d'une convention collective, y compris celles qui portent sur les dates d'expiration ou les droits d'ancienneté ou toute autre disposition de même nature;
- f) si les conditions visées au paragraphe 79 (2) ont été remplies à l'égard de certains des employés d'une unité de négociation issue d'une fusion, décider quelles conditions de travail leur sont applicables jusqu'à ce que l'unité soit régie par une convention collective ou jusqu'à ce que les conditions visées à ce paragraphe soient remplies à l'égard de cette unité;
- g) permettre à une partie de donner un avis de son intention de négocier collectivement.

Non-application à l'industrie de la construction

(9) Le présent article ne s'applique pas à l'égard d'un employeur au sens du paragraphe 126 (1).

Requête en accréditation sans scrutin : certaines industries

Définitions

15.2 (1) Les définitions qui suivent s'appliquent au présent article.

«employeur d'une industrie déterminée» Quiconque exploite une entreprise dans l'industrie des services de gestion d'immeubles, l'industrie des services de soins à domicile et des services communautaires ou l'industrie des agences de placement temporaire. («specified industry employer»)

«industrie des agences de placement temporaire» S'entend, sous réserve des règlements, des entreprises dont les activités consistent à employer des personnes afin de les affecter à l'exécution d'un travail à titre temporaire pour leurs clients. («temporary help agency industry»)

«industrie des services de gestion d'immeubles» S'entend, sous réserve des règlements, des entreprises dont les activités consistent à fournir des services que fournit directement ou indirectement le propriétaire ou le gérant d'un bâtiment, ou qui lui sont fournis, et qui sont reliés aux services aux locaux, notamment les services de nettoyage, les services d'alimentation et les services de sécurité du bâtiment. («building services industry»)

«industrie des services de soins à domicile et des services communautaires» S'entend, sous réserve des règlements, des entreprises dont les activités consistent à fournir des services communautaires en vertu de la *Loi de 1994 sur les services de soins à domicile et les services communautaires*. («home care and community services industry»)

Requêtes : employeurs d'une industrie déterminée

(2) Sous réserve du paragraphe (3), le présent article s'applique à l'égard des requêtes en accréditation comme agent négociateur des employés d'un employeur d'une industrie déterminée.

Non-application

(3) Le présent article ne s'applique pas à l'égard des catégories d'employés d'un employeur d'une industrie déterminée qui sont prescrites.

Choix

(4) Le syndicat qui présente une requête en accréditation comme agent négociateur des employés d'un employeur d'une industrie déterminée peut choisir que sa requête soit traitée dans le cadre du présent article plutôt que de l'article 8.

Avis à la Commission et à l'employeur

(5) Le syndicat avise par écrit de son choix :

- a) la Commission, le jour où il dépose sa requête;
- b) l'employeur, le jour où il lui remet une copie de sa requête.

Renseignements à fournir par l'employeur

(6) Dans les deux jours, exception faite des samedis, dimanches et jours fériés, qui suivent la réception de l'avis prévu au paragraphe (5), l'employeur fournit à la Commission :

- a) les noms des employés compris dans l'unité de négociation proposée dans la requête le jour de son dépôt;
- b) s'il lui donne une description écrite de l'unité de négociation qu'il propose, conformément au paragraphe 7 (14), les noms des employés compris dans cette unité de négociation le jour du dépôt de la requête.

Questions à déterminer

(7) Sur réception d'une requête en accréditation d'un syndicat qui a choisi de la faire traiter dans le cadre du présent article, la Commission détermine ce qui suit, au jour du dépôt de la requête et d'après les renseignements qui y sont fournis ou qui y sont joints et ceux fournis en application du paragraphe (6) :

- a) l'unité de négociation;
- b) le pourcentage des employés compris dans l'unité de négociation qui sont membres du syndicat.

Exception : allégation de contravention

(8) Le paragraphe (7) n'a pas pour effet d'empêcher la Commission d'examiner des preuves et des arguments se rapportant à des allégations selon lesquelles il a été contrevenu à l'article 70, 72 ou 76 ou selon lesquelles il y a eu fraude ou déclaration inexacte, si elle l'estime approprié en vue de rendre une décision dans le cadre du présent article.

Audience

(9) La Commission peut tenir une audience si elle l'estime nécessaire pour rendre une décision dans le cadre du présent article.

Rejet : adhésion insuffisante

(10) La Commission ne peut pas accréditer le syndicat comme agent négociateur des employés compris dans l'unité de négociation et rejette la requête si elle est convaincue que moins de 40 % des employés compris dans l'unité de négociation sont membres du syndicat le jour du dépôt de la requête.

Rejet correctif

(11) Le paragraphe (12) s'applique si le syndicat ou la personne agissant pour son compte contrevient à la présente loi et que, par conséquent, les preuves concernant les adhésions qui sont fournies dans sa requête en accréditation ou qui y sont jointes ne reflètent vraisemblablement pas les vrais désirs des employés compris dans l'unité de négociation.

Idem

(12) Dans les circonstances visées au paragraphe (11) et sur requête d'une personne intéressée, la Commission peut rejeter la requête en accréditation si aucun autre recours, notamment un scrutin de représentation ordonné en vertu de l'alinéa (16) b), ne serait suffisant pour contrer les effets de la contravention.

Interdiction

(13) Si elle rejette une requête en accréditation en vertu du paragraphe (12), la Commission ne peut examiner aucune autre requête en accréditation du syndicat comme agent négociateur de tout employé qui était compris dans l'unité de négociation proposée dans la requête initiale tant qu'il ne s'est pas écoulé un an après le rejet de celle-ci.

Idem

(14) Malgré le paragraphe (13), la Commission peut examiner une requête en accréditation du syndicat comme agent négociateur des employés compris dans une unité de négociation qui compte un employé qui était compris dans l'unité de négociation proposée dans la requête initiale si :

- a) d'une part, le poste qu'occupait l'employé au moment de la présentation de la requête initiale est différent de celui qu'il occupe au moment de la présentation de la nouvelle requête;
- b) d'autre part, l'employé ne serait pas compris dans l'unité de négociation proposée dans la nouvelle requête s'il occupait toujours son poste initial au moment de la présentation de celle-ci.

Scrutin de représentation sur ordonnance de la Commission

(15) La Commission ordonne la tenue d'un scrutin de représentation si elle est convaincue qu'au moins 40 % et au plus 55 % des employés compris dans l'unité de négociation sont membres du syndicat le jour du dépôt de la requête.

Accréditation ou scrutin de représentation

(16) Si elle est convaincue que plus de 55 % des employés compris dans l'unité de négociation sont membres du syndicat le jour du dépôt de la requête, la Commission peut, selon le cas :

- a) accrédi-ter le syndicat comme agent négociateur des employés compris dans l'unité de négociation;
- b) ordonner la tenue d'un scrutin de représentation.

Scrutin de représentation

(17) Si la Commission ordonne la tenue d'un scrutin de représentation :

- a) sauf ordonnance contraire de la Commission, le scrutin se tient dans les cinq jours, exception faite des samedis, dimanches et jours fériés, qui suivent le jour où elle en a ordonné la tenue;
- b) lors du scrutin, les bulletins de vote sont remplis de manière que l'identité de la personne qui vote ne puisse être associée à son choix;
- c) la Commission peut ordonner qu'un ou plusieurs bulletins de vote soient séparés et que les urnes où ils sont déposés soient scellées jusqu'au moment qu'elle indique;
- d) sous réserve de l'article 11.1, la Commission accrédi-te le syndicat comme agent négociateur des employés compris dans l'unité de négociation si plus de 50 % des voix exprimées lors du scrutin de représentation par les employés compris dans l'unité de négociation sont en faveur du syndicat;
- e) sous réserve de l'article 11, la Commission ne peut pas accrédi-ter le syndicat comme agent négociateur des employés compris dans l'unité de négociation et rejette la requête en accréditation si 50 % ou moins des voix exprimées lors du scrutin de représentation par les employés compris dans l'unité de négociation sont en faveur du syndicat.

Interdiction

(18) Si elle rejette une requête en accréditation en application de l'alinéa (17) e), la Commission ne peut examiner aucune autre requête en accréditation de n'importe quel syndicat comme agent négociateur de tout employé qui était compris dans l'unité de négociation proposée dans la requête initiale tant qu'il ne s'est pas écoulé un an après le rejet de celle-ci.

Exception

(19) Malgré le paragraphe (18), la Commission peut examiner une requête en accréditation d'un syndicat comme agent négociateur des employés compris dans une unité de négociation qui compte un employé qui était compris dans l'unité de négociation proposée dans la requête initiale si :

- a) d'une part, le poste qu'occupait l'employé au moment de la présentation de la requête initiale était différent de celui qu'il occupe au moment de la présentation de la nouvelle requête;
- b) d'autre part, l'employé ne serait pas compris dans l'unité de négociation proposée dans la nouvelle requête s'il occupait toujours son poste initial au moment de la présentation de celle-ci.

Idem

(20) Le paragraphe (18) ne s'applique pas s'il est interdit à la Commission, aux termes de l'article 15, d'accréditer le syndicat dont la requête a été rejetée.

Non-application de certaines dispositions

(21) Les articles 8, 8.1 et 10 ne s'appliquent pas à l'égard d'une requête en accréditation que le syndicat a choisi de faire traiter dans le cadre du présent article.

Retrait de la requête : interdiction discrétionnaire

(22) Le paragraphe 7 (9) s'applique, avec les adaptations nécessaires, si le syndicat retire la requête en accréditation :

- a) soit avant que la Commission ne prenne des mesures en application du paragraphe (10), (15) ou (16) du présent article;
- b) soit après que la Commission a ordonné la tenue d'un scrutin de représentation en application du paragraphe (15) ou de l'alinéa (16) b) du présent article, mais avant sa tenue.

Deuxième retrait : interdiction obligatoire

(23) Les paragraphes 7 (9.1), (9.2) et (9.3) s'appliquent, avec les adaptations nécessaires, si le syndicat retire une requête en accréditation dans les circonstances visées au paragraphe (22) du présent article et en a déjà retiré une dans les six mois qui précèdent.

Retrait de la requête après le scrutin : interdiction obligatoire

(24) Les paragraphes 7 (10), (10.1) et (10.2) s'appliquent, avec les adaptations nécessaires, si le syndicat retire la requête en accréditation après la tenue d'un scrutin de représentation conformément à l'ordonnance de la Commission prévue au paragraphe (15) ou à l'alinéa (16) b) du présent article.

5 La Loi est modifiée par adjonction de l'article suivant :**Soutien pédagogique**

16.1 (1) Lorsque l'avis prévu à l'article 16 a été donné, l'une ou l'autre des parties peut demander un soutien pédagogique en pratique des relations de travail et de la négociation collective, et le ministre met ce soutien pédagogique à la disposition des parties.

Idem : non-application

(2) Le paragraphe (1) ne s'applique pas dans les circonstances visées au paragraphe 43 (12).

6 L'article 43 de la Loi est abrogé et remplacé par ce qui suit :**Médiation de la première convention collective**

43 (1) Si les parties ne parviennent pas à conclure une première convention collective et que le ministre a donné avis qu'il n'était pas opportun de constituer une commission de conciliation ou a communiqué le rapport d'une telle commission, l'une ou l'autre des parties peut demander au ministre de désigner un médiateur de la première convention collective.

Contenu de la demande

(2) L'auteur de la demande présentée en vertu du paragraphe (1) doit y inclure une liste des questions en litige ainsi qu'un énoncé de sa position en ce qui a trait à ces questions.

Avis à l'autre partie

(3) L'auteur de la demande présentée en vertu du paragraphe (1) en remet une copie à l'autre partie au plus tard le jour où il la présente au ministre.

Réponse de l'autre partie

(4) Au plus tard cinq jours après avoir reçu une copie de la demande présentée en vertu du paragraphe (1), l'autre partie remet au ministre et à l'auteur de la demande une liste des questions en litige ainsi qu'un énoncé de sa position en ce qui a trait à ces questions.

Désignation du médiateur

(5) Dans les sept jours qui suivent celui où il reçoit une demande présentée en vertu du paragraphe (1), le ministre désigne un médiateur unique de la première convention collective et en informe les parties.

Obligations du médiateur

(6) Le médiateur de la première convention collective fait ce qui suit :

- a) il rencontre les parties et les aide dans leurs efforts pour parvenir à une convention collective;
- b) il facilite et encourage le processus de négociation collective.

Soutien pédagogique

(7) L'une ou l'autre des parties peut demander un soutien pédagogique en pratique des relations de travail et de la négociation collective, et le médiateur de la première convention collective met ce soutien pédagogique à la disposition des parties.

Interdiction de grève

(8) Aucun employé ne doit faire grève et aucune personne ni aucun syndicat ne doit lancer un ordre de grève à des employés, ni les autoriser à faire grève, ni ne doit menacer de le faire pendant la période qui débute au moment où le ministre procède à une désignation en application du paragraphe (5) et qui se termine le jour qui tombe 45 jours plus tard.

Idem

(9) Aucun dirigeant ou agent d'un syndicat ne doit recommander, provoquer, appuyer ni encourager une grève d'employés pendant la période précisée au paragraphe (8).

Interdiction de lock-out

(10) L'employeur ne doit pas lock-outer ni menacer de lock-outer des employés pendant la période précisée au paragraphe (8).

Idem

(11) Aucun dirigeant ou agent de l'employeur ne doit recommander, provoquer, appuyer ni encourager un lock-out d'employés pendant la période précisée au paragraphe (8).

Non-application

(12) Le présent article ne s'applique pas :

- a) à l'égard d'une unité de négociation issue d'une fusion en vertu de l'article 15.1 décidée par la Commission;
- b) à la négociation d'une première convention collective dans l'un ou l'autre des cas suivants :
 - (i) le syndicat a été accrédité à la suite d'une requête présentée en vertu du paragraphe 7 (4), (5) ou (6),
 - (ii) l'une des parties est une association patronale accréditée en vertu de l'article 136 en tant qu'agent négociateur des employeurs,
 - (iii) il s'agit d'une convention provinciale au sens de l'article 151.

Définitions

(13) Les définitions qui suivent s'appliquent aux paragraphes (14) et (15).

«requête en révocation de l'accréditation» Requête en vue d'obtenir une déclaration selon laquelle un syndicat ne représente plus les employés compris dans une unité de négociation. («decertification application»)

«requête en substitution» Requête en accréditation d'un syndicat, autre que celui qui représente les employés compris dans une unité de négociation, à titre d'agent négociateur de ces employés. («displacement application»)

Application du par. (15)

(14) Le paragraphe (15) s'applique si, selon le cas :

- a) une requête en révocation de l'accréditation ou en substitution a été déposée auprès de la Commission et, avant qu'une décision définitive ne soit rendue à son égard, une demande est présentée au ministre en vertu du paragraphe (1) ;
- b) une demande a été présentée au ministre en vertu du paragraphe (1) et, à la date de cette demande ou par la suite, une requête en révocation de l'accréditation ou en substitution est déposée auprès de la Commission.

Requêtes multiples : procédure

(15) La Commission ne doit pas traiter ou continuer de traiter la requête en révocation de l'accréditation ou en substitution tant qu'il ne s'est pas écoulé 45 jours après que le ministre a fait la désignation prévue au paragraphe (5), après quoi les paragraphes 43.1 (24) et (25) s'appliquent.

Médiation-arbitrage de la première convention collective

43.1 (1) À n'importe quel moment à compter du jour qui tombe 45 jours après celui où le ministre fait une désignation en application du paragraphe 43 (5), si les parties n'ont pas conclu de convention collective, l'une ou l'autre de celles-ci peut

par voie de requête, demander à la Commission d'ordonner le règlement de la première convention collective par voie de médiation-arbitrage.

Obligation de la Commission

(2) Dans les 30 jours de la réception de la requête visée au paragraphe (1), la Commission l'étudie, rend sa décision et, sous réserve des paragraphes (3) et (4), peut :

- a) soit ordonner aux parties d'entreprendre une nouvelle médiation;
- b) soit rejeter la requête;
- c) soit ordonner le règlement de la première convention collective par voie de médiation-arbitrage.

Idem

(3) La Commission ordonne le règlement de la première convention collective par voie de médiation-arbitrage sauf dans l'un ou l'autre des cas suivants :

- a) le requérant a contrevenu à l'article 17;
- b) la Commission estime que le processus de négociation collective a échoué à cause de l'intransigeance de la position qu'adopte le requérant sans motif raisonnable;
- c) la Commission est d'avis qu'une nouvelle médiation serait appropriée.

Idem

(4) Si elle a accrédité le syndicat en vertu du paragraphe 11 (2), la Commission ordonne le règlement de la première convention collective par voie de médiation-arbitrage sauf dans l'un ou l'autre des cas suivants :

- a) le requérant a contrevenu à l'article 17;
- b) la Commission estime que le processus de négociation collective a échoué à cause de l'intransigeance de la position qu'adopte le requérant sans motif raisonnable.

Ordonnance : nouvelle médiation ou rejet

(5) Si la Commission ordonne aux parties d'entreprendre une nouvelle médiation ou qu'elle rejette une requête en vertu du paragraphe (2), les règles suivantes s'appliquent :

1. Le droit de grève et le droit de lock-out sont régis par l'article 79.
2. En cas d'ordonnance rendue en vertu de l'alinéa (2) a), les parties demandent de l'aide supplémentaire de la part du médiateur de la première convention collective ou de la part d'un autre médiateur dont les parties conviennent, ou les parties peuvent conjointement demander au ministre de l'aide supplémentaire à la médiation.
3. En cas de rejet en vertu de l'alinéa (2) b), les parties peuvent demander de l'aide supplémentaire de la part du médiateur de la première convention collective ou de la part d'un autre médiateur dont les parties conviennent, ou les parties peuvent conjointement demander au ministre de l'aide supplémentaire à la médiation.
4. Une partie peut présenter une deuxième requête en vertu du paragraphe (1) et la Commission peut l'examiner si elle est convaincue que, depuis qu'elle a rendu sa décision initiale en vertu du paragraphe (2), le requérant a pris toutes les mesures raisonnables pour participer de bonne foi à la négociation collective avec l'aide d'un médiateur.

Renvoi en médiation-arbitrage

(6) Si la Commission ordonne le règlement de la première convention collective par voie de médiation-arbitrage en vertu de l'alinéa (2) c), les règles énoncées aux paragraphes (7) à (22) s'appliquent.

Désignation conjointe du médiateur-arbitre

(7) Dans les sept jours qui suivent celui où l'ordonnance est rendue, les parties peuvent convenir par écrit de désigner conjointement un médiateur-arbitre unique pour régler la première convention collective par voie de médiation-arbitrage.

Honoraires et indemnités

(8) Si les parties désignent conjointement un médiateur-arbitre unique, chaque partie paie la moitié de ses honoraires et indemnités.

Absence de désignation

(9) Si les parties ne désignent pas conjointement de médiateur-arbitre dans le délai de sept jours, l'une ou l'autre d'entre elles peut, par voie de requête, demander à la Commission d'ordonner le règlement de la première convention collective par voie de médiation-arbitrage.

Médiation-arbitrage de la Commission

(10) Si une requête est présentée à la Commission en vertu du paragraphe (9), le président ou le vice-président est désigné pour agir en qualité de médiateur-arbitre et exerce tous les pouvoirs et fonctions que lui confère la présente loi à ce titre.

Idem

(11) Les parties à une médiation-arbitrage par la Commission paient conjointement à celle-ci le montant déterminé aux termes des règlements pour les frais de la médiation-arbitrage et la Commission verse ce montant au Trésor.

Remplacement

(12) Si la personne désignée comme médiateur-arbitre ne peut ou ne veut pas remplir les fonctions qui lui incombent, les règles suivantes s'appliquent :

1. Si la désignation a été faite en vertu du paragraphe (7), les parties se mettent d'accord sur la désignation d'un nouveau médiateur-arbitre, et si elles n'y parviennent pas, l'une ou l'autre d'entre elles peut présenter une requête à la Commission en vertu du paragraphe (9) et le processus reprend depuis le début.
2. Si le médiateur-arbitre était un président ou un vice-président agissant en application du paragraphe (10), la Commission réaffecte le règlement de la question et le processus reprend depuis le début.

Procédure du médiateur-arbitre

(13) Le médiateur-arbitre désigné en vertu du présent article décide lui-même de la procédure à suivre, mais donne aux parties la pleine possibilité de présenter leurs preuves et de faire valoir leurs arguments. L'article 116 s'applique au médiateur-arbitre, à la décision qu'il rend et à ses activités, comme s'il s'agissait de la Commission.

Idem

(14) Les paragraphes 48 (12) et (18) s'appliquent, avec les adaptations nécessaires, au médiateur-arbitre désigné en vertu du présent article.

Idem

(15) La date de la première audience du médiateur-arbitre désigné en vertu du présent article ne peut être postérieure à 21 jours après sa désignation.

Idem

(16) Le médiateur-arbitre désigné en vertu du présent article décide de toutes les questions en litige et communique sa décision dans les 45 jours du début de l'audience.

Effet de la décision

(17) Si une ordonnance a été rendue en vertu de l'alinéa (2) c), les employés compris dans une unité de négociation ne doivent pas faire grève et l'employeur ne doit pas les lock-outer. Si l'ordonnance est rendue pendant une grève ou un lock-out des employés compris dans l'unité de négociation, ceux-ci doivent sans délai mettre fin à la grève ou l'employeur, mettre fin au lock-out. L'employeur réintègre sans délai les employés compris dans l'unité de négociation dans l'emploi qu'ils occupaient au début de la grève ou du lock-out conformément à l'article 80, avec les adaptations nécessaires.

Aucune modification des conditions de travail

(18) Si une ordonnance a été rendue en vertu de l'alinéa (2) c), les taux de salaires et les autres conditions d'emploi, ainsi que les droits, privilèges et obligations de l'employeur, des employés et du syndicat en vigueur à la date où l'avis a été donné aux termes de l'article 16 demeurent en vigueur ou, si ces conditions, droits, privilèges ou obligations ont été modifiés avant que l'ordonnance ne soit rendue, ils sont remis en vigueur et le demeurent jusqu'au règlement de la première convention collective.

Non-application

(19) Le paragraphe (18) ne s'applique pas de façon à modifier les taux de salaires ou les conditions d'emploi dont ont convenu le syndicat et l'employeur.

Questions acceptées

(20) Lors de la médiation-arbitrage du règlement d'une première convention collective dans le cadre du présent article, les questions sur lesquelles les parties se sont entendues par écrit, sont acceptées sans modification.

Effet du règlement

(21) La première convention collective réglée dans le cadre du présent article demeure en vigueur pendant deux ans à compter de la date de son règlement. La convention peut prévoir que l'une quelconque de ses conditions, sauf sa durée, est rétroactive au jour que fixe le médiateur-arbitre, mais pas à une date antérieure à celle où l'avis a été donné en vertu de l'article 16.

Prorogation

(22) Les parties, par accord écrit, ou le ministre, peuvent proroger tout délai fixé au présent article malgré l'expiration de ce délai.

Définitions

(23) Les définitions qui suivent s'appliquent aux paragraphes (24) à (28).

«requête en révocation de l'accréditation» Requête en vue d'obtenir une déclaration selon laquelle un syndicat ne représente plus les employés compris dans une unité de négociation. («decertification application»)

«requête en substitution» Requête en accréditation d'un syndicat, autre que celui qui représente les employés compris dans une unité de négociation, comme agent négociateur de ces employés. («displacement application»)

Application du par. (25)

(24) Le paragraphe (25) s'applique dans l'un ou l'autre des cas suivants :

- a) une requête en révocation de l'accréditation ou en substitution a été déposée auprès de la Commission et, avant qu'une décision définitive ne soit rendue à son égard, une requête visée au paragraphe (1) est déposée auprès d'elle;
- b) une requête visée au paragraphe (1) a été déposée auprès de la Commission et, avant qu'une décision définitive ne soit rendue à son égard, une requête en révocation de l'accréditation ou en substitution est déposée auprès d'elle.

Procédure en cas de requêtes multiples

(25) La Commission traite la requête visée au paragraphe (1) avant de traiter ou de continuer de traiter la requête en révocation de l'accréditation ou en substitution.

Idem

(26) Si la Commission ordonne le règlement de la première convention collective par voie de médiation-arbitrage en vertu de l'alinéa (2) c), elle rejette la requête en révocation de l'accréditation ou en substitution.

Idem

(27) Si la Commission rejette la requête visée à l'alinéa (2) b), elle traite la requête en révocation de l'accréditation ou en substitution.

Idem

(28) Si la Commission rend l'ordonnance visée à l'alinéa (2) a), elle ne doit pas traiter la requête en révocation de l'accréditation ou en substitution pendant les 30 jours qui suivent la date de l'ordonnance.

Idem

(29) Toute requête présentée en vue d'obtenir une déclaration selon laquelle le syndicat ne représente plus les employés compris dans l'unité de négociation qui est déposée auprès de la Commission après que celle-ci a rendu l'ordonnance visée à l'alinéa (2) c) est sans effet, à moins d'être présentée après le règlement de la première convention collective et conformément au paragraphe 63 (2).

Idem

(30) Toute requête en accréditation d'un autre syndicat comme agent négociateur des employés compris dans l'unité de négociation qui est déposée auprès de la Commission après que celle-ci a rendu l'ordonnance visée à l'alinéa (2) c) est sans effet, à moins d'être présentée après le règlement de la première convention collective et conformément aux paragraphes 7 (4), (5) et (6).

Procédure

(31) La *Loi de 1991 sur l'arbitrage* ne s'applique pas à la médiation-arbitrage visée au présent article.

7 La Loi est modifiée par adjonction des articles suivants :**Droits du successeur : services de gestion d'immeubles**

69.1 (1) Le présent article s'applique à l'égard des services que fournit directement ou indirectement le propriétaire ou le gérant d'un bâtiment, ou qui lui sont fournis, et qui sont reliés aux services aux locaux, notamment les services de nettoyage, les services d'alimentation et les services de sécurité du bâtiment.

Exclusions

(2) Le présent article ne s'applique pas à l'égard des services suivants :

1. La construction.
2. L'entretien autre que les activités d'entretien reliées au nettoyage des locaux.

3. La production de biens autres que ceux liés à la prestation de services d'alimentation, dans les locaux, pour consommation sur place.

Services fournis aux termes d'un contrat

- (3) Pour l'application de l'article 69, une entreprise est réputée avoir été vendue si les conditions suivantes sont réunies :
- a) les employés assurent des services dans des locaux qui constituent leur principal lieu de travail;
 - b) leur employeur cesse de fournir tout ou partie des services dans ces locaux;
 - c) des services essentiellement semblables sont fournis par la suite dans les locaux sous la direction d'un autre employeur.

Interprétation

- (4) Pour l'application de l'article 69, l'employeur visé à l'alinéa (3) b) du présent article est considéré comme étant l'employeur qui vend l'entreprise et l'employeur visé à l'alinéa (3) c) du présent article est considéré comme étant la personne à qui l'entreprise a été vendue.

Droits du successeur : autres fournisseurs de services

69.2 Si les règlements le prévoient, l'article 69 s'applique aux autres types prescrits de fournisseurs de services recevant directement ou indirectement des fonds publics, sous réserve des conditions prescrites.

8 (1) Le paragraphe 80 (1) de la Loi est modifié par remplacement de «dans les six mois du» par «après le».

(2) L'article 80 de la Loi est modifié par adjonction des paragraphes suivants :

Idem

- (3) Sous réserve des paragraphes (5) à (7), à la fin d'une grève ou d'un lock-out licites, l'employeur d'un employé qui était en grève licite ou qui a été licitement lock-outé le réintègre dans son emploi antérieur aux conditions dont il convient avec l'agent négociateur qui représente l'employé.

Idem

- (4) L'obligation prévue au paragraphe (3) peut être exécutée par le recours aux procédures de grief et d'arbitrage établies dans la nouvelle convention collective ou réputées y être incluses aux termes de l'article 48.

Droit de déplacer d'autres personnes

- (5) Les employés en grève ou en lock-out ont le droit de déplacer quiconque effectuait le travail d'employés en grève ou en lock-out pendant la grève ou le lock-out si les états de service de l'autre personne au moment où a commencé la grève ou le lock-out sont inférieurs aux leurs.

Insuffisance de travail

- (6) S'il n'y a pas assez de travail pour tous les employés en grève ou en lock-out, l'employeur les réintègre dans un emploi au sein de l'unité de négociation au fur et à mesure que le travail devient disponible :

- a) soit, si la convention collective contient des dispositions sur le rappel au travail qui sont fondées sur l'ancienneté, conformément à l'ancienneté au sens de ces dispositions, déterminée à la date où la grève ou le lock-out a commencé, par rapport à celle des autres employés compris dans l'unité de négociation qui étaient employés au moment où la grève ou le lock-out a commencé;
- b) soit, si la convention collective ne contient pas de telles dispositions sur le rappel au travail, conformément aux états de service de chaque employé, déterminés en fonction de la date où la grève ou le lock-out a commencé, par rapport à ceux des autres employés compris dans l'unité de négociation qui étaient employés au moment où la grève ou le lock-out a commencé.

Reprise des activités

- (7) Le paragraphe (6) ne s'applique pas si un employé n'est pas capable d'effectuer le travail requis pour reprendre les activités de l'employeur, mais seulement pendant la période nécessaire à la reprise des activités.

9 La Loi est modifiée par adjonction de l'article suivant :

Aucun congédiement ni mesure disciplinaire après une grève ou un lock-out

80.1 (1) L'employeur ne peut congédier un employé compris dans une unité de négociation, ni prendre des mesures disciplinaires à son égard, sans motif valable au cours de la période qui commence à la date à laquelle la grève ou le lock-out a pris fin et se termine le premier en date du jour de la conclusion d'une nouvelle convention collective et du jour où le syndicat ne représente plus les employés compris dans l'unité de négociation.

Idem : exécution

(2) L'obligation prévue au paragraphe (1) peut être exécutée par le recours aux procédures de grief et d'arbitrage établies dans la nouvelle convention collective ou réputées y être incluses aux termes de l'article 48.

10 L'article 98 de la Loi est abrogé et remplacé par ce qui suit :**Pouvoir de la Commission en matière d'ordonnances provisoires**

98 (1) La Commission peut rendre des décisions et des ordonnances provisoires dans toute instance.

Conditions

(2) La Commission peut assujettir ses décisions ou ordonnances provisoires à des conditions.

Motifs

(3) Les décisions ou ordonnances provisoires n'ont pas besoin d'être accompagnées de motifs.

11 (1) L'alinéa 104 (1) a) de la Loi est modifié par remplacement de «2 000 \$» par «5 000 \$» à la fin de l'alinéa.

(2) L'alinéa 104 (1) b) de la Loi est modifié par remplacement de «25 000 \$» par «100 000 \$» à la fin de l'alinéa.

12 (1) Le paragraphe 111 (2) de la Loi est modifié par adjonction des alinéas suivants :

h.1) de tenir des scrutins à un emplacement ou de la manière qui, de l'avis de la Commission, est appropriée dans les circonstances, notamment tenir des scrutins à l'extérieur du lieu de travail et par voie électronique ou par téléphone;

h.2) de donner des directives en ce qui concerne le déroulement ou les modalités du scrutin;

(2) L'alinéa 111 (2) (i) de la Loi est modifié par remplacement de «aux alinéas a) à h)» par «aux alinéas a) à h.2)».

13 (1) L'article 125 de la Loi est modifié par adjonction des alinéas suivants :

i.1) prescrire les catégories d'employés à l'égard desquels l'article 15.2 ne s'applique pas;

i.2) définir ou clarifier davantage le sens de «industrie des services de gestion d'immeubles» à l'article 15.2 et préciser les entreprises ou types d'entreprises qui sont compris ou non dans l'industrie des services de gestion d'immeubles pour l'application de cet article;

i.3) définir ou clarifier davantage le sens de «industrie des services de soins à domicile et des services communautaires» à l'article 15.2 et préciser les entreprises ou types d'entreprises qui sont compris ou non dans l'industrie des services de soins à domicile et des services communautaires pour l'application de cet article;

i.4) définir ou clarifier davantage le sens de «industrie des agences de placement temporaire» à l'article 15.2 et préciser les entreprises ou types d'entreprises qui sont compris ou non dans l'industrie des agences de placement temporaire pour l'application de cet article;

(2) L'alinéa 125 j) de la Loi est abrogé et remplacé par ce qui suit :

j) prescrire tout montant à payer en application du paragraphe 43.1 (11) pour les frais d'une médiation-arbitrage par la Commission ou le mode de calcul de ce montant;

(3) L'article 125 de la Loi est modifié par adjonction de l'alinéa suivant :

j.1) pour l'application de l'article 69.2, prescrire les types de fournisseurs de services recevant directement ou indirectement des fonds publics auxquels s'applique l'article 69 et prescrire des conditions pour l'application de cet article;

(4) L'article 125 de la Loi est modifié par adjonction des paragraphes suivants :**Règlements transitoires**

(2) Le lieutenant-gouverneur en conseil peut, par règlement, prévoir les questions transitoires qu'il estime nécessaires ou opportunes pour la mise en application des modifications apportées par la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois*.

Incompatibilité

(3) En cas d'incompatibilité entre la présente loi et un règlement pris en vertu du paragraphe (2), le règlement l'emporte.

14 Le paragraphe 160 (2) de la Loi est modifié par remplacement de «de l'alinéa 11 (2) c)» par «du paragraphe 11 (2)».

Loi de 2008 sur la négociation collective dans les collèges

15 (1) Le paragraphe 78 (1) de la *Loi de 2008 sur la négociation collective dans les collèges* est modifié par remplacement de «Les paragraphes 98 (1) à (5), les articles 110 à 113» par «Les articles 98 et 110 à 113» au début du paragraphe.

(2) La disposition 1 du paragraphe 78 (2) de la Loi est abrogée.

Loi de 1993 sur la négociation collective des employés de la Couronne

16 (1) Le paragraphe 5 (1) de la *Loi de 1993 sur la négociation collective des employés de la Couronne* est modifié par remplacement de «l'article 43» par «l'article 43.1».

(2) Le paragraphe 5 (2) de la Loi est modifié par remplacement de «des arbitrages visés à l'article 43» par «des médiations-arbitrages visées à l'article 43.1» dans le passage qui précède la disposition 1.

(3) Le paragraphe 5 (3) de la Loi est modifié par remplacement de «l'arbitrage» par «la médiation-arbitrage» partout où figure ce terme et par remplacement de «paragraphe 43 (11)» par «paragraphe 43.1 (15)».

(4) Le paragraphe 5 (4) de la Loi est modifié :

a) par remplacement de «le conseil d'arbitrage» par «le médiateur-arbitre» dans le passage qui précède l'alinéa a);

b) par remplacement de «paragraphe 43 (12)» par «paragraphe 43.1 (16)» dans le passage qui précède l'alinéa a);

c) par remplacement de «des membres du conseil d'arbitrage» par «du médiateur-arbitre» à la fin de l'alinéa b).

(5) Le paragraphe 5 (5) de la Loi est modifié par remplacement de «L'arbitre ou le conseil d'arbitrage» par «Le médiateur-arbitre» au début du paragraphe.

(6) L'article 26 de la Loi est modifié par remplacement de «L'article 43 de la *Loi de 1995 sur les relations de travail* ne s'applique pas» par «Les articles 43 et 43.1 de la *Loi de 1995 sur les relations de travail* ne s'appliquent pas» au début de l'article.

Loi de 1997 sur le règlement des différends dans le secteur public

17 L'alinéa 2 (1) e) de la *Loi de 1997 sur le règlement des différends dans le secteur public* est modifié par adjonction de «, dans sa version antérieure au jour de l'entrée en vigueur de l'article 6 de l'annexe 2 de la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois*.» après «*Loi de 1995 sur les relations de travail*».

Loi de 1997 sur les relations de travail liées à la transition dans le secteur public

18 Les paragraphes 32 (1), (2) et (3) de la *Loi de 1997 sur les relations de travail liées à la transition dans le secteur public* sont modifiés par remplacement de «*Loi de 1995 sur les relations de travail*» par «*Loi de 1995 sur les relations de travail*, dans sa version antérieure au jour de l'entrée en vigueur de l'article 6 de l'annexe 2 de la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois*.» partout où figure ce titre.

Loi de 2014 sur la négociation collective dans les conseils scolaires

19 L'article 7 de la *Loi de 2014 sur la négociation collective dans les conseils scolaires* est modifié par adjonction des paragraphes suivants :

Art. 15.1 de la *Loi de 1995 sur les relations de travail*

(2) L'article 15.1 de la *Loi de 1995 sur les relations de travail* ne s'applique pas lorsqu'il s'agit d'établir les unités de négociation visées au paragraphe (1), sauf si le lieutenant-gouverneur en conseil prend un règlement à l'effet contraire.

Idem : règlements

(3) Tout règlement pris en vertu du paragraphe (2) peut prévoir l'application de l'article 15.1 de la *Loi de 1995 sur les relations de travail* pour l'application du présent article et peut préciser, modifier ou restreindre l'application de cet article.

Entrée en vigueur

20 La présente annexe entre en vigueur le dernier en date du 1^{er} janvier 2018 et du jour où la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois* reçoit la sanction royale.

ANNEXE 3
LOI SUR LA SANTÉ ET LA SÉCURITÉ AU TRAVAIL

1 La *Loi sur la santé et la sécurité au travail* est modifiée par adjonction de l'article suivant :

Chaussures

25.1 (1) L'employeur ne doit pas exiger qu'un travailleur porte des chaussures à talon haut, sauf si cela est nécessaire pour que le travailleur exerce son travail en toute sécurité.

Exception

(2) Le paragraphe (1) ne s'applique pas à l'égard de l'employeur d'un travailleur qui travaille comme artiste ou interprète dans l'industrie du spectacle et de la publicité.

Définitions

(3) Les définitions qui suivent s'appliquent au paragraphe (2).

«industrie du spectacle et de la publicité» Industrie consistant à produire :

- a) soit des représentations devant public ou des représentations radiodiffusées ou télévisées;
- b) soit des enregistrements visuels, audio ou audio-visuels de représentations, par tout moyen ou sous tout format. («entertainment and advertising industry»)

«représentation» Représentation de tout genre, notamment une représentation d'une pièce de théâtre, un spectacle de danse, de patinage sur glace, de comédie, de production musicale, de variétés ou de cirque, un concert, un opéra, un défilé de mode et une lecture hors champ. Le terme «artiste ou interprète» a un sens correspondant. («performance», «performer»)

Entrée en vigueur

2 La présente annexe entre en vigueur le jour où la *Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois* reçoit la sanction royale.

NOTE EXPLICATIVE

*La note explicative, rédigée à titre de service aux lecteurs du projet de loi 148, ne fait pas partie de la loi.
Le projet de loi 148 a été édicté et constitue maintenant le chapitre 22 des Lois de l'Ontario de 2017.*

**ANNEXE 1
LOI DE 2000 SUR LES NORMES D'EMPLOI**

L'annexe apporte diverses modifications à la *Loi de 2000 sur les normes d'emploi*.

La Loi est modifiée afin de lier la Couronne, sous réserve d'une exception prévue à l'article 4 de la Loi (Personnes distinctes considérées comme un seul employeur).

Le nouvel article 5.1 interdit aux employeurs de traiter, dans le cadre de la Loi, des personnes qui sont leurs employés comme si elles n'étaient pas des employés au sens de la Loi.

La nouvelle partie VII.1 (Demandes de modification de l'horaire ou du lieu de travail) donne aux employés la possibilité de demander de changer d'horaire ou de lieu de travail. Les employeurs qui reçoivent de telles demandes doivent en discuter avec les employés et les leur accorder ou fournir les motifs d'un rejet.

La nouvelle partie VII.2 (Établissement des horaires de travail) énonce de nouvelles dispositions portant sur l'établissement des horaires. Citons une rémunération minimale de trois heures pour les quarts d'une durée de moins de trois heures, une rémunération minimale pour les périodes de travail sur appel, le droit de refuser de travailler un jour où cela n'est pas prévu comme le lui demande ou l'exige l'employeur si l'employé en est avisé dans un délai insuffisant et le droit à une rémunération pour trois heures de travail en cas d'annulation avec préavis insuffisant. Le pouvoir actuel de prendre des règlements exigeant que les employeurs paient le montant minimal prescrit aux employés qui travaillent moins de trois heures dans une journée est abrogé.

La partie VIII (Rémunération des heures supplémentaires) est modifiée pour établir la règle applicable à la rémunération des heures supplémentaires des employés qui ont au moins deux taux horaires normaux pour le travail exécuté pour le même employeur.

L'article 23.1 (Établissement du salaire minimum) est modifié pour augmenter le salaire minimum le 1^{er} janvier 2018. Le salaire minimum augmentera de nouveau le 1^{er} janvier 2019 et sera rajusté annuellement en fonction de l'inflation le 1^{er} octobre de chaque année à partir de 2019. Le salaire minimum des employés qui servent de l'alcool ne s'applique dorénavant que si, en plus de leur salaire, ils reçoivent normalement des pourboires ou d'autres gratifications dans le cadre de leur travail.

La partie X (Jours fériés) est modifiée. Les règles de calcul du salaire pour jour férié prévues à l'article 24 sont modifiées et ce calcul est dorénavant basé sur le nombre de jours effectivement travaillés au cours de la période de paie qui précède le jour férié. Les articles 27, 28, 29 et 30 sont modifiés pour exiger que l'employeur fournisse à l'employé un relevé écrit énonçant certains renseignements lorsqu'un jour est substitué à un jour férié.

La partie XI (Vacances et indemnité de vacances) est modifiée pour accorder le droit à des vacances minimales de trois semaines aux employés dont la période d'emploi est de cinq ans ou plus après la fin de leur année de référence. Des modifications connexes sont apportées dans l'ensemble de la partie.

La partie XII (À travail égal, salaire égal) est modifiée pour ajouter quatre nouvelles dispositions. Une définition est ajoutée pour préciser que «essentiellement semblable» signifie «essentiellement semblable mais pas nécessairement identique». La partie est modifiée pour prévoir le droit d'un employé de recevoir de l'employeur un taux de salaire égal à celui d'un autre employé indépendamment de leurs situations d'emploi différentes et le droit à un taux de salaire égal des employés ponctuels d'une agence de placement temporaire qui exécutent essentiellement le même travail qu'un employé du client de l'agence. Enfin, un nouvel article 42.3 exige que le ministre fasse entreprendre un examen des nouveaux droits. Des modifications connexes sont apportées aux dispositions de la Loi qui portent sur les représailles pour interdire celles-ci contre les employés qui s'informent des taux de salaire ou qui divulguent leur taux de salaire en vue d'établir ou d'aider à établir si l'employeur se conforme à la partie XII.

La partie XIV (Congés) est modifiée. Le nombre maximal de semaines de congé de maternité auxquelles l'employée a droit dans certaines circonstances est porté de six à 12. L'article 48 est modifié pour prévoir que le congé parental ne peut commencer plus de 78 semaines après la naissance de l'enfant ou de sa venue sous la garde, les soins et la surveillance de l'employé pour la première fois. La durée maximale du congé parental est portée de 35 à 61 semaines pour les employées qui prennent un congé de maternité et de 37 à 63 semaines pour les autres employés. Le nombre maximal de semaines de congé familial pour raison médicale auxquelles a droit un employé est porté de huit à 28. À l'heure actuelle, un employé peut prendre un congé afin d'offrir des soins ou du soutien à son enfant gravement malade; le nouvel article 49.4 prévoit qu'un employé a le droit de prendre un congé afin d'offrir des soins ou du soutien à n'importe quel membre de sa famille qui est gravement malade. Le nouvel article 49.5 établit le droit à un maximum de 104 semaines de congé non payé si l'enfant de l'employé décède pour quelque raison que ce soit, au lieu du droit actuel à un congé qui ne peut être pris que si l'enfant

décède dans des circonstances criminelles. Le nouvel article 49.6 conserve le droit au congé en cas de disparition d'un enfant dans des circonstances criminelles, mais porte de 52 à 104 le nombre maximal de semaines auxquelles a droit l'employé.

Le nouvel article 49.7 (Congé en cas de violence familiale ou sexuelle) prévoit que l'employé qui est employé par un employeur sans interruption depuis au moins 13 semaines a le droit de prendre jusqu'à 10 jours et jusqu'à 15 semaines de congé si lui-même ou son enfant subit de la violence familiale ou sexuelle, ou la menace d'une telle violence. Les cinq premiers jours du congé doivent être payés. Le congé doit être pris pour un ou plusieurs des motifs indiqués dans l'article.

L'article 50 (Congé d'urgence personnelle) est modifié pour accorder un congé d'urgence personnelle à tous les employés et pas uniquement aux employés des employeurs qui emploient normalement 50 employés ou plus. De plus, deux des jours de congé d'urgence personnelle doivent être dorénavant des jours payés si l'employé est employé par l'employeur depuis au moins une semaine. Ces jours doivent être pris, au cours d'une année civile, avant les jours de congé d'urgence personnelle non payé. Les employeurs conservent le droit d'exiger une preuve du droit à ces jours, mais n'ont pas le droit d'exiger un certificat d'un praticien de la santé qualifié.

La partie XVIII.1 (Agences de placement temporaire) est modifiée pour ajouter l'article 74.10.1. Ce nouvel article exige que les agences de placement temporaire donnent aux employés ponctuels un préavis écrit d'une semaine ou leur versent une indemnité tenant lieu de préavis s'il est mis fin à leur affectation avant la fin de sa durée estimative d'au moins trois mois, à moins qu'une autre affectation d'une durée d'au moins une semaine ne leur soit offerte.

Le paragraphe 88 (5) (Intérêts) est modifié pour permettre au directeur de calculer les taux d'intérêt pour les sommes dues en application de différentes dispositions de la Loi ou des règlements et pour les sommes que le directeur détient en fiducie.

Les nouveaux articles 88.2 et 88.3 permettent au directeur de reconnaître les employeurs qui remplissent les critères prescrits.

L'article 96.1 (Mesures à prendre avant de confier la plainte pour enquête), qui prévoit l'exigence qu'un plaignant prenne les mesures précisées par le directeur avant que celui-ci ne confie la plainte pour enquête, est abrogé.

Le paragraphe 103 (1) (Ordonnance de versement du salaire) est modifié pour permettre aux agents des normes d'emploi d'ordonner aux employeurs de verser directement le salaire aux employés. Des modifications similaires ont été apportées à d'autres pouvoirs de rendre des ordonnances.

L'article 113 (Avis de contravention) est modifié pour prévoir que les pénalités applicables aux contraventions sont fixées conformément aux règlements, lesquels permettent l'établissement d'une fourchette de pénalités ou de pénalités différentes qui s'appliquent aux particuliers et aux personnes morales. Les agents des normes d'emploi sont investis du pouvoir discrétionnaire de fixer une pénalité comprise dans une fourchette conformément aux critères prescrits, le cas échéant. Des dispositions sont ajoutées pour autoriser le directeur à publier, après la délivrance d'un avis de contravention, des renseignements concernant les contraventions à la Loi.

Des dispositions sont ajoutées à la partie XXIV (Recouvrement) pour permettre au directeur d'accepter une sûreté à l'égard des sommes dues en application de la Loi, de décerner des mandats pour recouvrer des sommes conformément à une ordonnance rendue en vertu de la Loi ou d'enregistrer un privilège à l'égard des sommes dues conformément à une ordonnance rendue en vertu de la Loi. Ces pouvoirs peuvent être délégués aux agents de recouvrement. Le directeur et les agents de recouvrement peuvent se divulguer réciproquement des renseignements en vue du recouvrement des sommes dues en application de la Loi.

Des modifications corrélatives sont apportées à la *Loi de 2009 sur la protection des étrangers dans le cadre de l'emploi* et à la *Loi sur la santé et la sécurité au travail*.

ANNEXE 2

LOI DE 1995 SUR LES RELATIONS DE TRAVAIL

L'annexe apporte diverses modifications à la *Loi de 1995 sur les relations de travail*.

Le nouvel article 6.1 de la Loi prévoit que, dans certaines circonstances, un syndicat peut, par voie de requête, demander à la Commission des relations de travail de l'Ontario de rendre une ordonnance enjoignant à l'employeur de fournir une liste de ses employés au syndicat. L'article énonce la marche à suivre pour présenter la requête et pour obtenir et utiliser cette liste, et établit les règles que doit suivre la Commission pour déterminer s'il y a lieu de rendre une ordonnance.

Des modifications sont apportées aux règles de l'article 11, qui régissent les cas où la Commission accrédite un syndicat si l'employeur contrevient à la Loi.

Selon le nouvel article 15.1, la Commission peut, dans certaines circonstances, réviser la structure des unités de négociation et rendre des ordonnances à cet égard, et les parties peuvent, d'un commun accord, et avec l'assentiment de la Commission, apporter des modifications à la structure des unités de négociation.

Le nouvel article 15.2 prévoit un autre processus d'accréditation de syndicats comme agents négociateurs pour les employés des employeurs des industries déterminées, soit l'industrie des services de gestion d'immeubles, l'industrie des services de soins à domicile et des services communautaires et l'industrie des agences de placement temporaire. Le syndicat peut choisir que sa requête en accréditation soit traitée sous le régime de l'article 15.2 (requête en accréditation sans scrutin) plutôt que sous le régime de l'article 8 (scrutin de représentation).

À l'heure actuelle, l'article 43 prévoit l'arbitrage de la première convention si les parties ne sont pas en mesure de conclure une première convention collective. L'article est réédité pour prévoir la médiation de la première convention collective. De plus, l'article 43.1 ajouté à la Loi prévoit la médiation-arbitrage de la première convention collective si la médiation prévue à l'article 43 ne mène pas à la conclusion d'une convention collective par les parties.

Les nouveaux articles 69.1 et 69.2 énoncent les règles régissant la manière dont l'article 69 (droits du successeur) s'applique à l'égard de certains fournisseurs de services.

Des modifications sont apportées à l'article 80, qui régit la réintégration des employés. De nouvelles dispositions prévoient la réintégration des employés à la fin d'une grève ou d'un lock-out licites et énoncent les règles régissant la réintégration.

Les nouveaux articles 12.1 et 80.1 prévoient que, pendant certaines périodes de négociation, l'employeur ne peut congédier un employé compris dans une unité de négociation touchée ni prendre des mesures disciplinaires à son égard sans motif valable.

L'annexe modifie également l'article 98, qui régit les pouvoirs de la Commission de rendre des ordonnances provisoires.

L'annexe comprend en outre des modifications corrélatives et des modifications de forme.

ANNEXE 3

LOI SUR LA SANTÉ ET LA SÉCURITÉ AU TRAVAIL

Un nouvel article est ajouté à la *Loi sur la santé et la sécurité au travail*. Cet article prévoit qu'un employeur ne doit pas exiger qu'un travailleur porte des chaussures à talon haut, sauf si cela est nécessaire pour que le travailleur exerce son travail en toute sécurité. Une exception est prévue pour les employeurs d'artistes ou interprètes dans l'industrie du spectacle et de la publicité.

CHAPTER 23

An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act, the Conservation Authorities Act and various other Acts

Assented to December 12, 2017

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1.	Contents of this Act
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Schedule 5	Amendments to Various Acts Consequential to the Enactment of the Local Planning Appeal Tribunal Act, 2017

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Building Better Communities and Conserving Watersheds Act, 2017*.

**SCHEDULE 1
LOCAL PLANNING APPEAL TRIBUNAL ACT, 2017**

CONTENTS

**PART I
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PART I
INTERPRETATION

Definitions

1 In this Act,

“approval authority” means an approval authority under section 17 of the *Planning Act*; (“autorité approbatrice”)

“local board” means any board, commission, committee, body or local authority established under or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or part of a municipality, and includes the following:

1. A school board.
2. A public utility commission.
3. A transportation commission.
4. A public library board.
5. A board of park management.
6. A board of health.
7. A police services board.
8. A planning board; (“conseil local”)

“municipality” includes a local board of a municipality and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory; (“municipalité”)

“rules” means the rules made by the Tribunal under section 32; (“règles”)

“Tribunal” means the *Local Planning Appeal Tribunal* established under this Act. (“Tribunal”)

PART II
CONSTITUTION OF THE TRIBUNAL

Ontario Municipal Board continued as the Tribunal

2 (1) The Ontario Municipal Board is continued under the name Local Planning Appeal Tribunal in English and Tribunal d’appel de l’aménagement local in French.

References to Ontario Municipal Board

(2) A reference to the Ontario Municipal Board or to that board under any other name in any general or special Act or in any regulation is deemed to be a reference to the Tribunal.

Composition of Tribunal

3 (1) The Tribunal shall be composed of members appointed by the Lieutenant Governor in Council.

Chair, vice chair

(2) The Lieutenant Governor in Council shall appoint a chair and may appoint one or more vice-chairs from among the members of the Tribunal.

Alternate chair

(3) The Lieutenant Governor in Council shall designate one of the members of the Tribunal to be the alternate chair.

Same

(4) If the chair is unable to act, the alternate chair shall perform the duties of the chair and, for this purpose, has all the powers of the chair.

Duties of chair

(5) The chair shall have general supervision and direction over the conduct of the affairs of the Tribunal and shall arrange the sittings of the Tribunal and assign members of the Tribunal to the sittings as necessary.

Quorum

4 One member of the Tribunal constitutes a quorum and is sufficient for the exercise of all of the jurisdiction and powers of the Tribunal.

More than two members presiding

5 If more than two members of the Tribunal preside over a hearing, the number of members shall be uneven.

Term of office

6 (1) A member of the Tribunal shall be appointed for the term specified by the Lieutenant Governor in Council.

Term expires

(2) If the term of office of a member of the Tribunal who has participated in a proceeding expires before the proceeding is disposed of, the term shall be deemed to continue, but only for the purpose of disposing of the proceeding, and for no other purpose.

Employees

7 The Tribunal may appoint such employees as it considers necessary for the conduct of its affairs and the employees shall be appointed under Part III of the *Public Service of Ontario Act, 2006*.

Protection from being called as witness

8 A member or employee of the Tribunal shall not be required to give testimony in a civil suit or any proceeding with regard to information obtained by the member or employee in the discharge of their duties.

Protection from personal liability

9 (1) No action or other proceeding may be instituted against the Tribunal or a member or employee of the Tribunal for any act done or omitted in good faith in the performance or intended performance of any duty under any general or special Act or in the exercise or intended exercise of any power under any general or special Act.

Crown liability

(2) Despite subsections 5 (2) to (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which the Crown would otherwise be subject.

Use of meeting facility

10 If the Tribunal holds a sitting in a municipality in which there is an appropriate meeting facility belonging to the municipality, the municipality shall, upon request, allow the sitting to be held in the facility and shall make all necessary arrangements for the sitting.

PART III GENERAL JURISDICTION AND POWERS

Exclusive jurisdiction

11 (1) The Tribunal has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act.

Power to determine law and fact

(2) The Tribunal has authority to hear and determine all questions of law or of fact with respect to all matters within its jurisdiction, unless limited by this Act or any other general or special Act.

Power to make orders

12 (1) The Tribunal has authority to make orders or give directions as may be necessary or incidental to the exercise of the powers conferred upon the Tribunal under this Act or any other general or special Act.

Conditions in orders

(2) The Tribunal may include in an order conditions that it considers fair in the circumstances, including a condition that the order comes into force at a future fixed time or upon the performance of terms imposed by the Tribunal.

Interim orders without notice

(3) The Tribunal may make an interim order without notice, if it is of the opinion that it is necessary to do so, but no such order shall be made for any longer time than the Tribunal may consider necessary to enable the matter to be heard and determined.

Partial or other relief than that applied for

(4) Unless any general or special Act specifies otherwise in respect of a proceeding before the Tribunal, the Tribunal may, as it considers to be just and proper,

- (a) make an order granting all or part of the application; or
- (b) make an order granting relief that is additional to or different from the relief applied for.

Extension of time specified in order

(5) When an order or decision of the Tribunal requires anything to be done within a specified time, the Tribunal may, upon notice and hearing, extend the specified time.

Same

(6) Despite subsection (5), the Tribunal may extend a specified time without notice if the Tribunal is of the opinion that it is necessary to do so.

Power to enter, inspect

13 (1) A member or employee of the Tribunal may, without warrant, enter into and inspect at any reasonable time any place, other than a dwelling, where the member or employee has reason to believe there may be evidence relevant to a proceeding before the Tribunal.

Identification

(2) A person who exercises the power conferred under subsection (1) shall identify himself or herself to the owner or occupier of the place and shall explain the purpose of the entry and inspection.

Power to set, charge fees

14 (1) The Tribunal may, subject to the approval of the Attorney General, set and charge fees,

- (a) in respect of proceedings brought before the Tribunal;
- (b) for furnishing copies of forms, notices or documents filed with or issued by the Tribunal or otherwise in the possession of the Tribunal; and
- (c) for other services provided by the Tribunal.

Same

(2) The Tribunal may treat different kinds of proceedings differently in setting fees.

Make fees public

(3) The Tribunal shall ensure that its fee structure is available to the public.

Where fees may be waived

(4) The Tribunal may waive all or any portion of fees for individuals who are determined, in accordance with the rules, to be low-income individuals.

PART IV GENERAL MUNICIPAL JURISDICTION

General municipal jurisdiction of the Tribunal

15 (1) The Tribunal has jurisdiction and power in relation to municipal affairs,

- (a) to approve the exercise in whole or in part of any of the powers by a municipality under any general or special Act that may or will involve or require the borrowing of money by the issue of debentures, or the incurring of any debt or the issuing of any debentures, which approval the municipality voluntarily applies for or is required by law to obtain;
- (b) to approve any by-law or proposed by-law of a municipality, which approval the municipality voluntarily applies for or is required by law to obtain;
- (c) to authorize the issue by a municipality, without the assent of the electors, of debentures to pay any floating indebtedness that it may have incurred, upon such terms, in such manner and at such times as the Tribunal may approve, or to direct that the floating indebtedness be paid in such other manner and within such time as the Tribunal may require;
- (d) to authorize the issue by a municipality, without the assent of the electors, of debentures to retire debentures that are redeemable before maturity, and the raising of the sum required for payment of the new debentures in the same manner as the sum required for payment of the retired debentures;
- (e) to certify to the validity of debentures issued under the authority of any by-law of a municipality that the Tribunal has approved;

- (f) to direct that before any approval is given by the Tribunal to the exercise of any powers by a municipality or to any by-law passed by it, or before any authorization is given by the Tribunal to the issue by a municipality of debentures to pay any floating indebtedness, the assent of the electors of the municipality or those who are qualified to vote on money by-laws first be obtained, even though the assent is not otherwise required;
- (g) to supervise, where considered necessary, the expenditure of any money borrowed by a municipality with the approval of the Tribunal;
- (h) to require and obtain from any municipality, at any time and for any definite period, statements in detail of any of its affairs, financial and otherwise;
- (i) to inquire at any time into any or all of the affairs, financial and otherwise, of a municipality and hold hearings and make investigations respecting those affairs as may appear necessary to be made in the interest of the municipality, its ratepayers, inhabitants and creditors and particularly to make and hold inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of a default by any municipality in meeting its obligations;
- (j) when authorized by an agreement entered into by two or more municipalities in which the municipalities agree to be bound by the decision of the Tribunal, to hear and determine disputes in relation to the agreement; and
- (k) where water or sewage service is supplied or to be supplied by one municipality to another municipality, to hear and determine the application of either municipality to confirm, vary or fix rates charged or to be charged in connection with the water or sewage service.

Same

(2) Clauses (1) (c) and (d) have effect despite any general or special Act.

Voluntary application for approval of by-laws

16 A municipality may apply to the Tribunal for its approval of any by-law, the passing of which has been authorized by an order of the Tribunal made under section 25.

Application to Tribunal for approval of by-law authorizing borrowing

17 (1) A person may apply to the Tribunal for approval of a by-law of a municipality authorizing a debenture, borrowing or other debt if the person is,

- (a) the holder of the debenture or entitled to receive the debenture or the proceeds of its sale;
- (b) the person to whom the borrowing is owed by the municipality; or
- (c) the person to whom the other debt is owed by the municipality.

Tribunal may approve

(2) The Tribunal may approve a by-law in respect of which an application is made under this section.

Approval to be withheld where litigation pending

18 The Tribunal shall not grant or issue any approval or certificate under this or any other general or special Act in respect of any municipal matter if there is any pending action or proceeding relating to the matter, including an application to quash any by-law of a municipality relating to the matter.

Time for certifying validity of debentures

19 (1) The Tribunal shall not certify the validity of any debenture issued under any by-law of a municipality until thirty days after the final passing of the by-law, unless notice of the application for certification has been otherwise published or given as directed by the Tribunal.

Exception

(2) This section does not apply to any debenture authorized under clause 15 (1) (d) or to a consolidating by-law if every by-law consolidated was finally passed at least thirty days before certification.

Validation of by-laws and debentures

20 (1) An application may be made to the Tribunal for approval of a municipal by-law authorizing the issue of any debentures, and of the debentures, either before the debentures are issued by the municipality or after the issue and sale of any debentures by the municipality.

Same

(2) In respect of an application made under subsection (1), the Tribunal may approve the by-law and certify the validity of the debentures despite any omission, illegality, invalidity or irregularity in the by-law or the debentures or in any proceedings relating to or incidental to them occurring before or after the final passing of the by-law or the issuing of the debentures.

No approval if by-law quashed, etc.

(3) The Tribunal shall not approve any by-law of a municipality or certify the validity of any debentures issued under a by-law if the validity of the by-law or debenture is being questioned in any pending litigation or the by-law has been set aside, quashed or declared to be invalid by any court.

Debentures to be certified

21 If the validity of a debenture is certified by the Tribunal, it shall bear the certificate of the Tribunal in the form approved by the Tribunal establishing that the by-law under the authority of which the debenture is issued has been approved by the Tribunal and that the debenture is issued in conformity with the approval.

Validity of certified debentures

22 Despite any general or special Act, every by-law of a municipality approved by the Tribunal and every debenture issued under a by-law bearing the certificate of the Tribunal is for all purposes valid and binding upon the corporation of the municipality and its ratepayers and upon the property liable for any rate imposed under the by-law, and the validity of the by-law and the debenture shall not be contested or questioned in any manner.

Scope of Tribunal inquiry

23 (1) The Tribunal may, before approving an application by a municipality for any of the following, make inquiries into the matters described in subsection (2):

1. Approval of the exercise by a municipality of any of its powers.
2. Approval of the incurring of any debt.
3. Approval of the issue of any debentures.
4. Approval of a by-law.

Same

(2) For the purposes of subsection (1), the matters are the following:

1. The nature of the power sought to be exercised or undertaking that is proposed to be or has been proceeded with.
2. The financial position and obligations of the municipality.
3. The burden of taxation upon the ratepayers.
4. Any other matter that the Tribunal considers to be relevant.

When electors' assent may be dispensed with

24 (1) This section applies if, under any general or special Act, the assent of the electors of a municipality or of those qualified to vote on money by-laws is required before the municipality may exercise a power, incur a debt, issue a debenture or pass a by-law.

Same

(2) The Tribunal shall not approve the exercise of the power, incurring of the debt, issue of the debentures or the by-law until the assent has been obtained, unless the Tribunal, after due inquiry, is satisfied that the assent may under all the circumstances properly be dispensed with.

Same

(3) If the Tribunal is satisfied for the purposes of subsection (2), it may by order declare and direct that the assent of the electors or the qualified electors shall not be required to be obtained despite the provisions of the general or special Act.

Hearing

(4) Before making any order under subsection (3) and subject to subsections (5), (6) and (7), the Tribunal shall hold a hearing for the purpose of inquiring into the merits of the matter and hearing any objections that any person may desire to bring to the attention of the Tribunal.

Notice to provide for filing of objections

(5) The Tribunal shall provide notice of the hearing as the Tribunal considers appropriate and may direct that the notice include a statement that anyone objecting to dispensing with the assent of the electors may, within the time specified by the Tribunal, file with the clerk of the municipality or, in the case of a local board, with the secretary of the local board, the objection to dispensing with the assent of the electors.

Where no objections

(6) Where notice has been given under subsection (5), the Tribunal may, when no notice of objection has been filed within the time specified in the notice, dispense with the assent of the electors without holding a hearing.

Where objections filed

(7) If one or more objections have been filed within the time specified in the notice, the Tribunal shall hold a hearing unless, under all the circumstances affecting the matter, the Tribunal considers the objection or, if more than one, all the objections to be insufficient to require a hearing.

Hearing not required where additional expenditure approved

(8) Despite subsection (4), where the Tribunal has approved an expenditure for any purpose, it may, without holding a hearing, dispense with the assent of the electors of a municipality or of those qualified to vote on money by-laws and approve additional expenditures for the same purpose not in excess of 25 per cent of the original expenditure approved.

Conditions in dispensing with vote

(9) The Tribunal, in making any order under subsection (3) dispensing with the necessity for obtaining the assent of the electors or qualified electors, may impose such terms, conditions and restrictions not only in respect of the matter in which such order is made, but as to any further or subsequent exercise of any of the powers of the municipality or incurring of any other debt or issue of any other debentures or passing of any other by-law by such municipality as may appear necessary to the Tribunal.

Limitation re undertaking debt

25 (1) Despite any general or special Act, a municipality or board to which this subsection applies shall not authorize, exercise any of its powers to proceed with or provide money for any work or class of work if the cost or any portion of the cost of the work is to be or may be raised after the term for which the council or board was elected.

Application of subs. (1)

(2) Subsection (1) applies to a local board, other than a board as defined in subsection 1 (1) of the *Education Act*, that is entitled to apply to the council of a municipality to have money provided by the issue of debentures of the municipality.

Matters not requiring Tribunal approval

(3) Subsection (1) does not apply to,

- (a) anything done with the approval of the Tribunal, if the approval is,
 - (i) provided for by another Act or by another provision of this Act, and
 - (ii) obtained in advance;
- (b) a by-law of a municipality containing a provision to the effect that it shall not come into force until the approval of the Tribunal has been obtained;
- (c) the appointment of an engineer, land surveyor or commissioner under the *Drainage Act*;
- (d) anything done by a municipality that does not cause it to exceed the limit prescribed under subsection 401 (4) of the *Municipal Act, 2001*; or
- (e) a by-law or resolution of a local board mentioned in subsection (2) containing a provision to the effect that it shall not come into force until the approval of the municipality has been obtained.

Approval of Tribunal

(4) The approval of the Tribunal mentioned in clause (3) (a) means and, despite the decision of any court, shall be deemed always to have meant the approval of the work mentioned in subsection (1).

Definition

(5) In this section,

“work” includes any undertaking, project, scheme, act, matter or thing.

Non-application

(6) This section does not apply to the City of Toronto.

Inquiry by the Tribunal

26 Upon an application being made to the Tribunal for the approval required by section 25, the Tribunal shall proceed to deal with the application in the manner provided by and shall have regard to the matters mentioned in section 23, and may hold such hearings as may appear necessary to the Tribunal.

Tribunal may impose conditions on giving approval

27 The Tribunal may impose, as it considers necessary and as a condition of giving its approval as required by section 25, restrictions, limitations and conditions upon the municipality with respect to the matter before the Tribunal or with respect to

the current annual or future annual expenditures of the municipality for any purpose or with respect to further issues of debentures by the municipality.

PART V RAILWAY AND UTILITIES JURISDICTION

Interpretation

28 In this Part,

“company” means a railway, street railway or incline railway company, and includes every such company and any person or municipal corporation having authority to construct or operate a railway or street railway or incline railway; (“compagnie”)

“public utility” means a waterworks, gasworks (including works for the production, transmission, distribution and supply of natural gas), electric heat, light and power works, telephone lines, or any works supplying the general public with necessities or conveniences; (“service public”)

“railway” means any railway that the company has authority to construct or operate, and includes all associated branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, real or personal property and works, and also any railway bridge, tunnel or other structure that the company is authorized to construct; (“chemin de fer”)

“street railway” means a railway constructed or operated along and upon a highway under an agreement with or by-law of a city or town, although it may at some point or points deviate from the highway to a right-of-way owned by the company, and includes all portions of the railway within the city or town and for a distance of not more than 2.4 kilometres beyond the limits of the city or town, and any part of an electric railway that lies within the limits of a city or town and that is constructed or operated along and upon a highway and includes buses and other vehicular means of transportation operated as part of or in connection with a street railway. (“tramway”)

Application of Part to all railways

29 The provisions of this Part relating to railways apply to all railways, including street railways.

Jurisdiction and powers of Tribunal

30 (1) The Tribunal has jurisdiction and power,

- (a) to hear and determine any application with respect to any railway or public utility, its construction, maintenance or operation by reason of the contravening of or failure to comply on the part of any person, firm, company, corporation or municipality with the requirements of this or any other general or special Act, or of any regulation, rule, by-law or order made thereunder, or of any agreement entered into in relation to such railway or public utility, its construction, maintenance or operation; and
- (b) to hear and determine any application with respect to any tolls charged by any person, firm, company, corporation or municipality operating a railway or public utility in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful.

Jurisdiction over receivers, liquidators, etc.

(2) A manager or other official or the liquidator or receiver of a railway or public utility shall manage, operate or liquidate the railway or public utility in accordance with this Act and under the orders and directions of the Tribunal, whether general or referring particularly to the railway or public utility.

Same

(3) The fact that the person is managing or operating or liquidating the railway or public utility under the authority of a court is not a bar to the exercise by the Tribunal of any jurisdiction or power conferred by this or any other general or special Act.

PART VI PRACTICE AND PROCEDURE

GENERAL

Disposition of proceedings

31 (1) The Tribunal shall dispose of proceedings before it in accordance with any practices and procedures that are required under,

- (a) this Act or a regulation made under this Act;
- (b) the *Statutory Powers Procedure Act*, unless that Act conflicts with this Act, a regulation made under this Act or the Tribunal’s rules; or
- (c) any other general or special Act.

Tribunal's practices and procedures

(2) The Tribunal shall, in respect of each proceeding before it, adopt any practices and procedures provided for in its rules or that are otherwise available to the Tribunal that in its opinion offer the best opportunity for a fair, just and expeditious resolution of the merits of the proceedings.

Statutory Powers Procedure Act

(3) Despite section 32 of the *Statutory Powers Procedure Act*, this Act, regulations made under this Act and the Tribunal's rules prevail over the provisions of that Act with which they conflict.

Rules

32 (1) The Tribunal may make rules governing its practices and procedures.

General or particular

(2) The rules may be of general or particular application.

Other rules

(3) Without limiting the generality of subsection (1), the rules may,

- (a) provide for and require the use of hearings or of practices and procedures that are alternatives to traditional adjudicative or adversarial procedures;
- (b) provide for and require notice to be provided in a particular manner;
- (c) authorize the Tribunal to hold hearings or other proceedings in writing or by any electronic or automated means;
- (d) authorize the Tribunal to combine two or more proceedings or any part of them, or hear two or more proceedings at the same time;
- (e) authorize the Tribunal to appoint a person from among a class of parties to a proceeding to represent the class where, in the opinion of the Tribunal, the parties have a common interest; and
- (f) provide for when and how the Tribunal may hear from a person other than a party.

Legislation Act, 2006

(4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to the rules.

Failure to comply with rules

(5) Unless the Tribunal's failure to comply with the rules or its exercise of discretion under the rules in a particular manner caused a substantial wrong that affected the final disposition of a matter, neither the failure nor the exercise of discretion is a ground for setting aside a decision of the Tribunal on an application for judicial review or an appeal.

Powers of Tribunal re proceedings**Power to require case management conference**

33 (1) The Tribunal may direct the parties to a proceeding before it to participate in a case management conference prior to a hearing, for the following purposes:

1. To identify additional parties to the proceeding.
2. To identify, define or narrow the issues raised by the proceeding.
3. To identify facts or evidence that may be agreed upon by the parties.
4. To provide directions for disclosure of information.
5. To discuss opportunities for settlement, including the possible use of mediation or other dispute resolution processes.
6. To establish dates by which any steps in the proceeding are to be taken or begun.
7. To determine the length, schedule and location of a hearing, if any.
8. To determine the order of presentation of submissions.
9. To deal with any other matter that may assist in the fair, just and expeditious resolution of the issues.

Power to examine

(2) At any stage of a proceeding, the Tribunal may,

- (a) examine a party to the proceeding;
- (b) examine a person other than a party who makes a submission to the Tribunal in respect of the proceeding;

- (c) require a party to the proceeding or a person other than a party who makes a submission to the Tribunal in respect of the proceeding to produce evidence for examination by the Tribunal; and
- (d) require a party to the proceeding to produce a witness for examination by the Tribunal.

Power to make confidentiality orders

(3) The Tribunal may order that any document filed in a proceeding before it be treated as confidential and not be disclosed to the public, where the Tribunal is of the opinion that,

- (a) matters involving public security may be disclosed; or
- (b) the document contains information regarding intimate financial or personal matters or other matters that are of such a nature that the public interest or the interest of a person affected would be better served by avoiding disclosure, despite the desirability of adhering to the principle that documents filed in a proceeding be available to the public.

Power to fix costs

(4) Subject to any general or special Act, the Tribunal may fix the costs of and incidental to any proceeding in accordance with the rules and regulations made under this Act.

Decisions of Tribunal to be final

34 Except as provided for in sections 35 and 37, a decision or order of the Tribunal is final and binding.

Review of Tribunal decision

35 The Tribunal may review, rescind or vary any decision or order made by it in accordance with the rules.

Stating case for opinion of Divisional Court

36 (1) The Tribunal may, of its own motion or upon the application of a party, state a case in writing for the opinion of the Divisional Court upon a question of law.

Submissions by the Tribunal

(2) The Divisional Court may hear submissions from the Tribunal on the stated case.

Court's opinion

(3) The Divisional Court shall hear and determine the stated case and remit it to the Tribunal with the court's opinion.

No stay

(4) Unless otherwise ordered by the Tribunal or the Divisional Court, the stating of a case to the Divisional Court under subsection (1) does not operate as a stay of a final decision or order of the Tribunal.

Application for review

(5) Within 30 days of receipt of the decision of the Divisional Court, a party to the stated case proceeding may apply to the Tribunal for a review of its original decision or order in accordance with section 35.

Appeal

37 (1) Subject to any general or special Act, an appeal lies from the Tribunal to the Divisional Court, with leave of the Divisional Court, on a question of law, except in respect of matters arising under Part IV.

Tribunal to receive notice

(2) A person appealing a decision or order under this section shall give to the Tribunal notice of the motion for leave to appeal.

Tribunal may be heard by counsel

(3) The Tribunal is entitled to be heard upon the argument of the appeal, including on a motion for leave to appeal.

No liability for costs

(4) Neither the Tribunal nor any member of the Tribunal is liable to any costs by reason or in respect of an appeal under this section.

PLANNING ACT APPEALS**Application of section**

38 (1) The practices and procedures set out in sections 39, 40 and 42 apply with respect to appeals to the Tribunal under subsections 17 (24) and (36), 22 (7) and 34 (11) and (19) of the *Planning Act* of a decision made by a municipality or approval authority in respect of an official plan or zoning by-law or the failure of a municipality to make a decision in respect of an official plan or zoning by-law, except for an appeal,

- (a) that is in respect of a new decision that the municipality or approval authority was given an opportunity by the Tribunal to make, where the Tribunal determined that the decision is inconsistent with a policy statement issued under subsection 3 (1) of the *Planning Act*, fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan;
- (b) where the Tribunal has received a notice from the Minister responsible for the *Planning Act*, in accordance with the *Planning Act*, that a matter of provincial interest is, or is likely to be, adversely affected by the plan or by-law or the parts of the plan or by-law in respect of which the appeal is made; or
- (c) that is an appeal under subsection 22 (7) or 34 (11) of the *Planning Act* in respect of the failure of a municipality to make a new decision that it was given an opportunity by the Tribunal to make.

Same

(2) The practices and procedures set out in sections 39, 41 and 42 apply with respect to appeals to the Tribunal under subsections 17 (40) and 51 (34) of the *Planning Act* of the failure of an approval authority to make a decision in respect of an official plan or plan of subdivision.

Timelines

(3) An appeal referred to in this section must adhere to any timelines prescribed by the regulations made under this Act.

Mandatory case management conference

39 (1) The Tribunal shall, upon receipt of the record of appeal, direct the appellant and the municipality or approval authority whose decision or failure to make a decision is being appealed to participate in a case management conference under subsection 33 (1).

Same

(2) A case management conference required under subsection (1) shall include discussion of opportunities for settlement, including the possible use of mediation or other dispute resolution processes.

Participation by other persons, subs. 38 (1)

40 (1) If a person other than the appellant or the municipality or approval authority whose decision or failure to make a decision is being appealed wishes to participate in an appeal described in subsection 38 (1), the person must make a written submission to the Tribunal respecting whether the decision or failure to make a decision,

- (a) was inconsistent with a policy statement issued under subsection 3 (1) of the *Planning Act*;
- (b) fails to conform with or conflicts with a provincial plan; or
- (c) fails to conform with an applicable official plan.

Time for submission

(2) The submission must be made to the Tribunal at least 30 days before the date of the case management conference.

Copy, certificate

(3) The person must serve a copy of the submission on the municipality or approval authority whose decision or failure to make a decision is being appealed and file a certificate of service with the Tribunal in the form approved by the Tribunal.

Additional parties

(4) The Tribunal may determine, from among the persons who provide written submissions, whether a person may participate in the appeal as an additional party or otherwise participate in the appeal on such terms as the Tribunal may determine.

Participation by other persons; subs. 38 (2)

41 (1) If a person other than the appellant or approval authority whose failure to make a decision is being appealed wishes to participate in an appeal described in subsection 38 (2), the person must make a written submission to the Tribunal.

Time for submission, service

(2) The time for submission and the requirements for service of the submission, if any, shall be as provided in the Tribunal's rules.

Additional parties

(3) The Tribunal may determine, from among the persons who provide written submissions, whether a person may participate in the appeal as an additional party or otherwise participate in the appeal on such terms as the Tribunal may determine.

Oral hearings**Appeals under subs. 38 (1)**

42 (1) If the Tribunal holds an oral hearing of an appeal described in subsection 38 (1), the only persons who may participate in the oral hearing are the parties.

Appeals under subs. 38 (2)

(2) If the Tribunal holds an oral hearing of an appeal described in subsection 38 (2), the only persons who may participate in the oral hearing are,

- (a) the parties; and
- (b) such persons identified by the Tribunal under section 41 (3) as persons who may participate in the oral hearing.

Same

(3) At an oral hearing of an appeal described in subsection 38 (1) or (2),

- (a) each party or person may make an oral submission that does not exceed the time provided under the regulations; and
- (b) no party or person may adduce evidence or call or examine witnesses.

REGULATIONS**Regulations**

43 (1) The Minister may make regulations,

- (a) governing the practices and procedures of the Tribunal, including prescribing the conduct and format of hearings, practices regarding the admission of evidence and the format of decisions;
- (b) providing for multi-member panels to hear proceedings before the Tribunal and governing the composition of such panels; and
- (c) prescribing timelines applicable to proceedings on appeals to the Tribunal under the *Planning Act*.

Transitional

(2) The Minister may make regulations providing for transitional matters respecting matters and proceedings that were commenced before or after the effective date.

Same

(3) A regulation made under subsection (2) may, without limitation,

- (a) determine which classes of matters and types of proceedings may be continued and disposed of under the *Ontario Municipal Board Act*, as it read on the day before the effective date, and which classes of matters and types of proceedings must be continued and disposed of under this Act, as it read on the effective date;
- (b) deem a matter or proceeding to have been commenced on the date or in the circumstances specified in the regulation.

Conflict

(4) A regulation made under subsection (2) prevails over any provision of this Act specifically mentioned in the regulation.

Definition

(5) In this section,

“effective date” means the date on which section 1 of the *Local Planning Appeal Tribunal Act, 2017* comes into force.

Regulations re costs

44 The Lieutenant Governor in Council may make regulations governing the fixing of costs by the Tribunal under subsection 33 (4).

PART VII**REPEAL, REVOCATIONS, COMMENCEMENT AND SHORT TITLE****Repeal**

45 The *Ontario Municipal Board Act* is repealed.

Revocations

46 (1) Ontario Regulation 189/16 (Fees) made under the *Ontario Municipal Board Act* is revoked.

(2) Ontario Regulation 30/02 (Consolidating Matters or Hearing Them Together) made under the *Ontario Municipal Board Act* is revoked.

Commencement

47 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short Title

48 The short title of the Act set out in this Schedule is the *Local Planning Appeal Tribunal Act, 2017*.

SCHEDULE 2 LOCAL PLANNING APPEAL SUPPORT CENTRE ACT, 2017

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Definitions

1 In this Act,

“by-laws” means the by-laws authorized under section 14; (“règlements administratifs”)

“Centre” means the Local Planning Appeal Support Centre established under section 2; (“Centre”)

“Minister” means the member of the Executive Council to whom the powers and duties of the Minister under this Act are assigned by the Lieutenant Governor in Council; (“ministre”)

“regulations” means the regulations made under this Act; (“règlements”)

“Tribunal” means the Local Planning Appeal Tribunal; (“Tribunal”)

Centre established

2 (1) A corporation without share capital is established under the name “Local Planning Appeal Support Centre” in English and “Centre d’assistance pour les appels en matière d’aménagement local” in French.

Composition

(2) The Centre is composed of the members of its board of directors.

Not a Crown agency

(3) The Centre is not an agent of Her Majesty nor a Crown agency for the purposes of the *Crown Agency Act*.

Centre’s money not part of Consolidated Revenue Fund

(4) The Centre’s money and investments do not form part of the Consolidated Revenue Fund.

Independent from but accountable to Ontario

(5) The Centre shall be independent from, but accountable to, the Government of Ontario as set out in this Act.

Natural person powers

(6) The Centre has the capacity and the rights, powers and privileges of a natural person, subject to the limitations set out in this Act and the regulations.

Application of corporate statutes

(7) The *Corporations Act* and the *Corporations Information Act* do not apply to the Centre, except as provided for by the regulations.

Objects

3 The objects of the Centre are,

- (a) to establish and administer a cost-effective and efficient system for providing support services to persons determined to be eligible under this Act respecting matters governed by the *Planning Act* that are under the jurisdiction of the Tribunal; and
- (b) to establish policies and priorities for the provision of the support services based on its financial resources.

Provision of support services

4 The Centre shall provide the following support services in order to achieve its objects:

- 1. Information on land use planning.
- 2. Guidance on Tribunal procedures.
- 3. Advice or representation.
- 4. Any other services prescribed by the regulations.

Eligibility for support services

5 (1) The Centre shall, subject to any rules prescribed in the regulations, establish criteria for determining the eligibility of persons to receive support services from the Centre.

Classes

(2) Criteria established under subsection (1) may be general or specific, and may set out different criteria for different classes of persons.

Public availability

(3) The Centre shall ensure that the criteria established under subsection (1) are available to the public.

Criteria not regulations

(4) Part III of the *Legislation Act, 2006* does not apply to criteria established under this section.

Availability of support services

6 The Centre shall ensure that the support services it establishes are available throughout the Province, using such methods of delivering the services as the Centre considers to be appropriate.

Board of directors

7 (1) The affairs of the Centre shall be governed and managed by its board of directors, who shall be responsible for furthering the Centre's objects.

Composition, appointment

(2) The board of directors of the Centre shall consist of up to seven members, all of whom shall be appointed by the Lieutenant Governor in Council.

Quorum

(3) Subject to the by-laws, a majority of the directors constitutes a quorum for the transaction of business.

Chair, vice-chair

(4) The Lieutenant Governor in Council shall designate a director as chair, and may designate another director as vice-chair.

Acting chair

(5) If the chair is absent or unable to act, or if the office of chair is vacant, the vice-chair, if any, shall act as and have all the powers of the chair.

Same

(6) If the chair and any vice-chair are absent from a board meeting, the directors present at the meeting shall appoint an acting chair from among themselves to act as, and to have all the powers of, the chair during the meeting.

Remuneration

(7) The members of the board may be paid remuneration and expenses as determined by the Lieutenant Governor in Council.

Board to act responsibly

(8) The board shall act in a financially responsible and accountable manner in exercising its powers and performing its duties.

Standard of care

(9) The members of the board shall act in good faith with a view to the objects of the Centre and shall exercise the care, diligence and skill of a reasonably prudent person.

Delegation by board

8 (1) Subject to subsection (2), the board of directors may, in accordance with the by-laws, delegate any of its powers or duties to a committee of the board, to one or more directors, or to one or more officers or employees of the Centre.

Restriction

(2) The board may not delegate its powers or duties respecting the passage of by-laws or resolutions, or the approval of the financial statements or the annual report of the Centre.

Delegation

(3) A delegation under subsection (1),

(a) shall be in writing; and

(b) may be general or specific, and include any terms, conditions or restrictions that the board of directors considers advisable.

Annual budget

9 The Centre shall submit its annual budget to the Minister for approval every year in the manner and form, and at the time, the Minister specifies.

Annual report

10 (1) The Centre shall submit an annual report to the Minister no later than four months after the end of its fiscal year.

Fiscal year

(2) The fiscal year of the Centre shall be from April 1 of a year to March 31 of the following year.

Auditing

11 (1) The Centre shall ensure that its books of financial account are audited annually in accordance with generally accepted accounting principles, and that a copy of the audit is given to the Minister.

Audit by Minister

(2) The Minister has the right to audit the Centre at any time that the Minister chooses.

Immunity

12 (1) No action or other civil proceeding shall be commenced against a director, officer, employee or agent of the Centre for an act done in good faith in the exercise or performance or intended exercise or performance of a power or duty under this Act, the regulations or the by-laws, or for neglect or default in the exercise or performance in good faith of the power or duty.

Same

(2) Subsection (1) does not relieve the Centre of any liability to which it would otherwise be subject with respect to a cause of action arising from any act, neglect or default mentioned in subsection (1).

Crown immunity

13 No action or other civil proceeding shall be commenced against the Crown for any act, neglect or default by a person referred to in subsection 12 (1) or for any act, neglect or default by the Centre.

By-laws

14 The Centre may pass by-laws and resolutions regulating its proceedings, and generally for the conduct and management of its business and affairs.

Regulations

15 The Lieutenant Governor in Council may make regulations,

(a) prescribing limitations for the purposes of subsection 2 (6);

(b) prescribing provisions of the Acts referred to in subsection 2 (7) that apply to the Centre;

(c) prescribing services for the purposes of paragraph 4 of subsection 4 (1);

(d) governing the eligibility of persons to receive support services from the Centre;

(e) providing for such other matters as the Lieutenant Governor in Council considers advisable to carry out the purpose of this Act.

Amendments to this Act

16 Subsection 2 (7) of the Act is amended by striking out "*Corporations Act*" and substituting "*Not-for-Profit Corporations Act, 2010*".

Commencement

17 (1) Subject to subsection (2), the Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Section 16 comes into force on the later of the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force and the day section 1 of the Act set out in this Schedule comes into force.

Short Title

18 The short title of the Act set out in this Schedule is the *Local Planning Appeal Support Centre Act, 2017*.

SCHEDULE 3
AMENDMENTS TO THE PLANNING ACT, THE CITY OF TORONTO ACT, 2006 AND THE ONTARIO
PLANNING AND DEVELOPMENT ACT, 1994

PLANNING ACT

1 (1) Subsection 1 (1) of the *Planning Act* is amended by adding the following definition:

“higher order transit” means transit that operates in whole or in part in a dedicated right of way, including heavy rail, light rail and buses; (“transport en commun d’un niveau supérieur”)

(2) The definition of “provincial plan” in subsection 1 (1) of the Act is amended by striking out “or” at the clause (e) and by adding the following clauses:

(e.1) a designated policy as defined in section 2 of the *Lake Simcoe Protection Act, 2008*,

(e.2) a designated policy as defined in section 3 of the *Great Lakes Protection Act, 2015*,

(e.3) a designated Great Lakes policy or a significant threat policy, as those terms are defined in subsection 2 (1) of the *Clean Water Act, 2006*, or

2 (1) Subsection 2.1 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Approval authorities and Tribunal to have regard to certain matters

(1) When an approval authority makes a decision under subsection 17 (34) or the Tribunal makes a decision in respect of an appeal referred to in subsection 17 (49.7) or (53), 22 (11.3), 34 (26.8) or (29), 38 (4) or (4.1), 41 (12.0.1), 51 (39), (43) or (48) or 53 (19) or (27), it shall have regard to,

(2) Subsection 2.1 (2) of the Act is repealed and the following substituted:

Same, Tribunal

(2) When the Tribunal makes a decision in respect of an appeal referred to in subsection 17 (40), 51 (34) or 53 (14), the Tribunal shall have regard to any information and material that the municipal council or approval authority received in relation to the matter.

3 Section 3 of the Act is amended by adding the following subsections:

Approval of Minister, etc.

(1.1) A policy statement may require an approval or determination by the Minister, any other minister of the Crown or multiple ministers of the Crown for any of the matters provided for in the policy statement.

Deemed policy statements

(8) Each of the following is deemed to be a policy statement issued under subsection (1):

1. A policy statement issued under section 31.1 of the *Metrolinx Act, 2006*.

2. A policy statement issued under section 11 of the *Resource Recovery and Circular Economy Act, 2016*.

3. A policy or statement that is prescribed for the purpose of this subsection.

Exceptions

(9) Subsections (1.1), (2), (3) and (10) do not apply to a policy or statement that is deemed by subsection (8) to be a policy statement issued under subsection (1).

4 (1) Subsection 8.1 (6) of the Act is repealed and the following substituted:

Power to hear appeals, etc.

(6) The council may by by-law empower the local appeal body to hear appeals or motions for directions, as the case may be, under,

(a) subsections 41 (4.2), (12) and (12.0.1);

(b) subsection 45 (12);

(c) subsections 53 (4.1), (14), (19) and (27); or

(d) the provisions listed in any combination of clauses (a), (b) and (c).

Interpretation re appeals

(6.1) The following rules apply if a by-law has been passed under subsection (6) empowering the local appeal body to hear motions for directions under subsection 41 (4.2) or 53 (4.1), or both:

1. References in this section to an appeal, other than in subsection (10), shall be read as including a reference to a motion for directions under either subsection 41 (4.2) or 53 (4.1), or both, as the case may be.
2. The reference in subsection (9) to an appellant shall be read as including a reference to a person or public body making a motion for directions under either subsection 41 (4.2) or 53 (4.1), or both, as the case may be.

(2) Subsection 8.1 (7) of the Act is repealed and the following substituted:**Effect of by-law under subs. (6)**

(7) If a by-law has been passed under subsection (6),

- (a) the local appeal body has all the powers and duties of the Tribunal under the relevant provisions of this Act;
- (b) all references in this Act to the Tribunal in connection with appeals under the relevant provisions shall be read as references to the local appeal body; and
- (c) appeals under the relevant provisions shall be made to the local appeal body, not to the Tribunal.

(3) Subsection 8.1 (11) of the Act is repealed and the following substituted:**Exception**

(11) Subsection (10) does not apply in respect of a motion for directions under subsection 41 (4.2) or 53 (4.1).

(4) Clauses 8.1 (13) (a) and (b) of the Act are repealed and the following substituted:

- (a) in respect of the same matter as the appeal under a provision listed in subsection (6); and
- (b) under another provision listed in subsection (6) in respect of which the local appeal body has not been empowered, under section 17, 22, 34, 36, 38 or 51 or in relation to a development permit system.

(5) Subsection 8.1 (16) of the Act is amended by striking out “a notice of appeal is filed in respect of a related appeal, the Municipal Board shall” and substituting “a notice of appeal is filed with the Tribunal in respect of a related appeal, the Tribunal shall”.

(6) Subsection 8.1 (26) of the Act is repealed and the following substituted:**Transition**

(26) This section does not apply to the following:

1. An appeal under subsection 45 (12), if the decision of the committee in respect of which a notice of appeal is filed is made before the day on which a by-law passed under subsection (6) of this section by the council of the relevant municipality that empowers the local appeal body to hear that type of appeal comes into force.
2. An appeal under subsection 53 (19) or (27), if the notice under subsection 53 (17) or (24), as the case may be, is given before the day on which a by-law passed under subsection (6) of this section by the council of the relevant municipality that empowers the local appeal body to hear that type of appeal comes into force.
3. An appeal under subsection 41 (4.2), (12) or (12.0.1) or 53 (4.1) or (14), if the appeal is made before the day on which a by-law passed under subsection (6) of this section by the council of the relevant municipality that empowers the local appeal body to hear that type of appeal comes into force.

Deeming rule re appeals under subs. 53 (4.1)

(27) If a municipality has, before the day subsection 4 (1) of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, passed a by-law under subsection (6) of this section empowering the local appeal body to hear appeals under subsections 53 (14), (19) and (27), the by-law is deemed to empower the local appeal body to hear appeals under subsection 53 (4.1) that are made on or after that day.

5 (1) Subsection 16 (1) of the Act is amended by adding the following clause:

- (a.1) such policies and measures as are practicable to ensure the adequate provision of affordable housing;

(2) Section 16 of the Act is amended by adding the following subsections:**Climate change policies**

(14) An official plan shall contain policies that identify goals, objectives and actions to mitigate greenhouse gas emissions and to provide for adaptation to a changing climate, including through increasing resiliency.

Protected major transit station areas – single-tier municipality

(15) The official plan of a single-tier municipality may include policies that identify the area surrounding and including an existing or planned higher order transit station or stop as a protected major transit station area and that delineate the area's boundaries, and if the official plan includes such policies it must also contain policies that,

- (a) identify the minimum number of residents and jobs, collectively, per hectare that are planned to be accommodated within the area;
- (b) identify the authorized uses of land in the major transit station area and of buildings or structures on lands in the area; and
- (c) identify the minimum densities that are authorized with respect to buildings and structures on lands in the area.

Same, upper-tier municipality

(16) The official plan of an upper-tier municipality may include policies that identify the area surrounding and including an existing or planned higher order transit station or stop as a protected major transit station area and that delineate the area's boundaries, and if the official plan includes such policies it must also contain policies that,

- (a) identify the minimum number of residents and jobs, collectively, per hectare that are planned to be accommodated within the area; and
- (b) require official plans of the relevant lower-tier municipality or municipalities to include policies that,
 - (i) identify the authorized uses of land in the area and of buildings or structures on lands in the area; and
 - (ii) identify the minimum densities that are authorized with respect to buildings and structures on lands in the area.

Failure to amend official plan

(17) If an official plan of a lower-tier municipality that is required to include the policies described in subclauses (16) (b) (i) and (ii) is not amended to include those policies as required by subsection 27 (1) within one year from the day the policies identifying the relevant protected major transit station area in accordance with subsection (16) of this section come into effect, subsection 27 (2) does not apply and instead the council of the upper-tier municipality shall amend the official plan of the lower-tier municipality in the like manner and subject to the same requirements and procedures as the council that failed to make the amendment within the one-year period as required.

No exemption under subs. 17 (9)

(18) An order under subsection 17 (9) does not apply to an amendment to an official plan if the amendment does any of the following:

1. Adds all of the policies described in subsection (15) to the official plan.
2. In the case of an official plan of an upper-tier municipality, adds all of the policies described in subsection (16) to the plan, other than the policies described in subclauses (16) (b) (i) and (ii).
3. In the case of an official plan of a lower-tier municipality, adds all of the policies described in subclauses (16) (b) (i) and (ii) to the plan with respect to a protected major transit station area identified in accordance with subsection (16).
4. Amends or revokes any of the policies described in subsection (15) or (16) with respect to a protected major transit station area identified in accordance with either of those subsections.

Authorization under subs. 17 (10) does not apply

(19) An authorization under subsection 17 (10) does not apply to an amendment to an official plan of a lower-tier municipality that,

- (a) adds all of the policies described in subclauses (16) (b) (i) and (ii) to the plan with respect to a protected major transit station area identified in accordance with subsection (16); or
- (b) amends or revokes any of the policies described in subclauses (16) (b) (i) and (ii) with respect to a protected major transit station area identified in accordance with subsection (16).

6 (1) Section 17 of the Act is amended by adding the following subsection:**Basis for appeal**

(24.0.1) An appeal under subsection (24) may only be made on the basis that the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

(2) Clause 17 (25) (b) of the Act is repealed and the following substituted:

- (b) explain how the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan; and

(3) Subsection 17 (25.1) of the Act is repealed.

(4) Subsection 17 (27) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Decision final

(27) If one or more persons or public bodies have a right of appeal under subsection (24) in respect of all or part of the decision of council, but no notice of appeal is filed under that subsection and the time for filing appeals has expired.

(5) Section 17 of the Act is amended by adding the following subsection:

Same

(27.1) If no person or public body has any right of appeal under subsection (24) in respect of any part of the decision of council,

- (a) the decision of council is final; and
- (b) the plan that was adopted comes into effect as an official plan on the day after the day it was adopted.

(6) Subsection 17 (34.1) of the Act is amended by striking out "180th day" wherever it appears and substituting in each case "210th day".

(7) Section 17 of the Act is amended by adding the following subsection:

Basis for appeal

(36.0.1) An appeal under subsection (36) may only be made on the basis that the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

(8) Section 17 of the Act is amended by adding the following subsections:

No appeal re protected major transit station policies

(36.1.4) Despite subsection (36), there is no appeal in respect of the following:

1. Policies that identify a protected major transit station area in accordance with subsection 16 (15) or (16), including any changes to those policies.
2. Policies described in clauses 16 (15) (a), (b) or (c) or (16) (a) or (b) with respect to a protected major transit station area that is identified in accordance with subsection 16 (15) or (16).
3. Policies in a lower-tier municipality's official plan that are described in subclause 16 (16) (b) (i) or (ii).
4. Policies that identify the maximum densities that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15).
5. Policies that identify the maximum densities that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (16).
6. Policies that identify the minimum or maximum heights that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15).
7. Policies that identify the minimum or maximum heights that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (16).

Limitation

(36.1.5) Paragraphs 3, 5 and 7 of subsection (36.1.4) apply only if,

- (a) the plan that includes the policies referred to in those paragraphs also includes all of the policies described in subclauses 16 (16) (b) (i) and (ii) for the relevant protected major transit station area; or
- (b) the lower-tier municipality's official plan in effect at the relevant time contains all of the policies described in subclauses 16 (16) (b) (i) and (ii) for the relevant protected major transit station area.

Exception

(36.1.6) Despite paragraphs 6 and 7 of subsection (36.1.4), there is an appeal in circumstances where the maximum height that is authorized with respect to a building or structure on a particular parcel of land would result in the building or structure not satisfying the minimum density that is authorized in respect of that parcel.

Exception re Minister

(36.1.7) Subsection (36.1.4) does not apply to an appeal by the Minister.

(9) Subsection 17 (36.2) of the Act is amended by striking out “in the case of a new official plan there is no appeal” and substituting “in the case of a new official plan that is approved by an approval authority other than the Minister, there is no appeal”.

(10) Section 17 of the Act is amended by adding the following subsection:

No appeal re decision by Minister

(36.5) Despite subsection (36), there is no appeal in respect of a decision of the approval authority under subsection (34), if the approval authority is the Minister.

(11) Clause 17 (37) (b) of the Act is repealed and the following substituted:

- (b) explain how the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality’s official plan; and

(12) Subsection 17 (37.1) of the Act is repealed.

(13) Subsection 17 (38) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Decision final

(38) If one or more persons or public bodies have a right of appeal under subsection (36) in respect of all or part of the decision of the approval authority, but no notice of appeal is filed under that subsection and the time for filing appeals has expired,

(14) Section 17 of the Act is amended by adding the following subsection:

Same

(38.1) If no person or public body has any right of appeal under subsection (36) in respect of any part of the decision of the approval authority,

- (a) the decision of the approval authority is final; and
- (b) the plan or part of the plan that was approved comes into effect as an official plan or part of an official plan on the day after the day it was approved.

(15) Subsection 17 (40) of the Act is amended by,

- (a) striking out “within 180 days” and substituting “within 210 days”; and
- (b) striking out “any person or public body may appeal to the Municipal Board” and substituting “any person or public body may appeal to the Tribunal”.

(16) Subsection 17 (40.1) of the Act is amended by striking out “180-day period” wherever it appears and substituting in each case “210-day period”.

(17) Subsection 17 (40.2) of the Act is amended by,

- (a) striking out “180 days” in the portion before clause (a) and substituting “210 days”; and
- (b) striking out “180th day” wherever it appears and substituting in each case “210th day”.

(18) Subsection 17 (40.4) of the Act is amended by striking out “180-day period” and substituting “210-day period”.

(19) Subsections 17 (44.3) to (44.6) of the Act are repealed.

(20) Subsection 17 (44.7) of the Act is amended by striking out “Subsections (44.1) to (44.6)” at the beginning and substituting “Subsections (44.1) and (44.2)”.

(21) Subsection 17 (45) of the Act is repealed and the following substituted:

Dismissal without hearing

(45) Despite the *Statutory Powers Procedure Act* and subsection (44), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply:

1. The Tribunal is of the opinion that,
 - i. the explanation required by clause (25) (b) or (37) (b), as the case may be, does not disclose that the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan, or in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan,
 - ii. the appeal is not made in good faith or is frivolous or vexatious,
 - iii. the appeal is made only for the purpose of delay, or
 - iv. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process.
2. The appellant has not provided the explanations required by clause (25) (b) or (37) (b), as applicable.
3. The appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017* and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal.
4. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

(22) Subsection 17 (46) of the Act is amended by,

- (a) striking out "Before dismissing all or part of an appeal, the Municipal Board shall" at the beginning and substituting "Before dismissing all or part of an appeal, the Tribunal shall"; and
- (b) striking out "clause (45) (e)" at the end and substituting "paragraph 3 or 4 of subsection (45)".

(23) Subsection 17 (49) of the Act is repealed and the following substituted:

Transfer

(49) If a notice of appeal under subsection (40) is received by the Tribunal, the Tribunal may require that a municipality or approval authority transfer to the Tribunal any other part of the plan that is not in effect and to which the notice of appeal does not apply.

(24) Section 17 of the Act is amended by adding the following subsections:

Powers of L.P.A.T. — appeals under subss. (24) and (36)

(49.1) Subject to subsections (49.3) to (49.9), after holding a hearing on an appeal under subsection (24) or (36), the Tribunal shall dismiss the appeal.

Same

(49.2) If the Tribunal dismisses all appeals made under subsection (24) or (36) in respect of all or part of a decision after holding a hearing, the Tribunal shall notify the clerk of the municipality or the approval authority and,

- (a) the decision or that part of the decision that was the subject of the appeal is final; and
- (b) the plan or part of the plan that was adopted or approved and in respect of which all the appeals have been dismissed comes into effect as an official plan or part of an official plan on the day after the day the last outstanding appeal has been dismissed.

Refusal and notice to make new decision

(49.3) Unless subsection (49.4), (49.7) or (49.8) applies, if the Tribunal determines that a part of a decision to which a notice of appeal under subsection (24) or (36) relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan,

- (a) the Tribunal shall refuse to approve that part of the plan; and
- (b) the Tribunal shall notify the clerk of the municipality that adopted the official plan that the municipality is being given an opportunity to make a new decision in respect of the matter.

Revised plan with consent of parties

(49.4) Unless subsection (49.8) applies, if a revised plan is presented to the Tribunal with the consent of all of the parties specified in subsection (49.11), the Tribunal shall approve the revised plan as an official plan except for any part of it that is

inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

Same, notice to make new decision

(49.5) If subsection (49.4) applies and the Tribunal determines that any part of the revised plan is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

- (a) the Tribunal shall refuse to approve that part of the plan; and
- (b) the Tribunal shall notify the clerk of the municipality that adopted the official plan that the municipality is being given an opportunity to make a new decision in respect of the matter.

Rules that apply if notice is received

(49.6) If the clerk has received notice under clause (49.3) (b) or (49.5) (b), the following rules apply:

1. The council of the municipality may prepare and adopt another plan, subject to the following:
 - i. Subsections (16) and (17.1) do not apply.
 - ii. If the plan is not exempt from approval,
 - A. the reference to "within 210 days" in subsection (40) shall be read as "within 90 days",
 - B. subsection (40.1) does not apply,
 - C. references to "210 days" and "210th day" in subsection (40.2) shall be read as "90 days" and "90th day", respectively, and
 - D. the reference to "210-day period" in subsection (40.4) shall be read as "90-day period".
2. If the decision that was the subject of the appeal was in respect of an amendment adopted in response to a request under subsection 22 (1) or (2), the references to "within 210 days after the day the request is received" in paragraphs 1 and 2 of subsection 22 (7.0.2) shall be read as "within 90 days after the day notice under clause (49.3) (b) or (49.5) (b) was received".

Second appeal

(49.7) Unless subsection (49.8) applies, on an appeal under subsection (24) or (36) that concerns a new decision that the municipality was given an opportunity to make in accordance with subsection (49.6) or 22 (11.0.12), the Tribunal may make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan, if the Tribunal determines that the decision is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

Same, revised plan with consent of parties

(49.8) If, on an appeal under subsection (24) or (36) that concerns a new decision that the municipality was given an opportunity to make in accordance with subsection (49.6) or 22 (11.0.12), a revised plan is presented to the Tribunal with the consent of all of the parties specified in subsection (49.11), the Tribunal shall approve the revised plan as an official plan except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

Same

(49.9) If subsection (49.8) applies and the Tribunal determines that any part of the revised plan is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the Tribunal may make modifications to that part of the revised plan and approve it as modified as part of an official plan or refuse to approve all or part of that part of the revised plan.

Coming into effect of plan

(49.10) If the Tribunal approves all or part of a revised plan as an official plan or part of an official plan under subsection (49.4) or (49.8), the plan or part of the plan that is approved comes into effect as an official plan or part of an official plan on the day after the day the plan or part of the plan was approved.

Specified parties

(49.11) For the purposes of subsection (49.4) and (49.8), the specified parties are:

1. The municipality that adopted the plan.

2. The appropriate approval authority, if the approval authority is a party.
3. The Minister, if the Minister is a party.
4. If applicable, the person or public body that requested an amendment to the official plan.
5. All appellants of the decision which was the subject of the appeal.

Effect on original plan

(49.12) If subsection (49.4) or (49.8) applies, the version of the plan that was the subject of the notice of appeal shall be deemed to have been refused.

(25) Subsection 17 (50) of the Act is amended by striking out “On an appeal or a transfer, the Municipal Board may” at the beginning and substituting “On an appeal under subsection (40) or a transfer, the Tribunal may”.

(26) Subsections 17 (50.1) and (51) of the Act are repealed and the following substituted:

Same

(50.1) For greater certainty, subsections (49.7), (49.9) and (50) do not give the Tribunal power to approve or modify any part of the plan that,

- (a) is in effect; and
- (b) was not added, amended or revoked by the plan to which the notice of appeal relates.

Matters of provincial interest

(51) Where an appeal is made to the Tribunal under this section, the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the plan or the parts of the plan in respect of which the appeal is made, may so advise the Tribunal in writing not later than 30 days after the day the Tribunal gives notice under subsection (44) and the Minister shall identify,

- (a) the provisions of the plan by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected.

(27) Subsection 17 (53) of the Act is repealed and the following substituted:

Applicable rules if notice under subs. (51) received

(53) If the Tribunal has received a notice from the Minister under subsection (51), the following rules apply:

1. Subsections (49.1) to (50) do not apply to the appeal.
2. The Tribunal may approve all or part of the plan as all or part of an official plan, make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan.
3. The decision of the Tribunal is not final and binding in respect of the provisions identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of the provisions.

7 Section 21 of the Act is amended by adding the following subsection:

Exception

(3) Subsection 17 (36.5) applies to an amendment only if it is a revision that is adopted in accordance with section 26.

8 (1) Section 22 of the Act is amended by adding the following subsections:

Same, secondary plans

(2.1.1) No person or public body shall request an amendment to a secondary plan before the second anniversary of the first day any part of the secondary plan comes into effect.

Interpretation, secondary plan

(2.1.2) For the purpose of subsection (2.1.1), a secondary plan is a part of an official plan, added by way of an amendment, that contains policies and land use designations that apply to multiple contiguous parcels of land, but not an entire municipality, and that provides more detailed land use policy direction in respect of those parcels than was provided before the amendment.

No request for amendment re protected major transit station area policies

(2.1.3) If a protected major transit station area is identified in an official plan in accordance with subsection 16 (15) or (16), no person or public body shall request an amendment in respect of any of the policies described in those subsections in respect of that area, including, for greater certainty, policies described in subclauses 16 (16) (b) (i) and (ii) that are contained in the official plan of a lower-tier municipality.

(2) Subsection 22 (2.2) of the Act is repealed and the following substituted:

Exception

(2.2) If the council has declared by resolution that a request described in subsection (2.1), (2.1.1) or (2.1.3) is permitted, which resolution may be made in respect of a specific request, a class of requests or in respect of such requests generally, the relevant subsection does not apply.

(3) Section 22 of the Act is amended by adding the following subsection:**Basis for appeal**

(7.0.0.1) An appeal under subsection (7) may only be made on the basis that,

- (a) the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan; and
- (b) the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan.

Exception

(7.0.0.2) Subsection (7.0.0.1) and clauses (8) (a.1) and (a.2) do not apply to an appeal under subsection (7) brought in accordance with paragraph 1 or 2 of subsection (7.0.2) that concerns a request in respect of which the municipality or planning board was given an opportunity to make a new decision in accordance with subsection (11.0.12) or subsection 17 (49.6).

(4) Subsection 22 (7.0.2) of the Act is amended by striking out "180 days" wherever it appears and substituting in each case "210 days".**(5) Section 22 of the Act is amended by adding the following subsection:****Same**

(7.0.2.1) For greater certainty, a condition set out in subsection (7.0.2) is not met if the council or the planning board adopts an amendment in response to a request under subsection (1) or (2), even if the amendment that is adopted differs from the requested amendment.

(6) Subsection 22 (8) of the Act is amended by striking out "and" at the end of clause (a) and by adding the following clauses:

- (a.1) explain how the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan;
- (a.2) explain how the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan; and

(7) Subsection 22 (11) of the Act is repealed and the following substituted:**Hearing**

(11) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or such public bodies and in such manner as the Tribunal may determine.

Restriction re adding parties

(11.0.1) Despite subsection (11), in the case of an appeal under subsection (7) brought in accordance with paragraph 3 or 4 of subsection (7.0.2), only the following may be added as parties:

1. A person or public body who satisfies one of the conditions set out in subsection (11.0.2).
2. The Minister.
3. The appropriate approval authority.

Same

(11.0.2) The conditions mentioned in paragraph 1 of subsection (11.0.1) are:

1. Before the requested amendment was refused, the person or public body made oral submissions at a public meeting or written submissions to the council or planning board.
2. The Tribunal is of the opinion that there are reasonable grounds to add the person or public body as a party.

Conflict with SPPA

(11.0.3) Subsections (11.0.1) and (11.0.2) apply despite the *Statutory Powers Procedure Act*.

Dismissal without hearing

(11.0.4) Despite the *Statutory Powers Procedure Act* and subsection (11), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply:

1. The Tribunal is of the opinion that the explanations required by clauses (8) (a.1) and (a.2) do not disclose both of the following:
 - i. That the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan.
 - ii. That the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan.
2. The Tribunal is of the opinion that,
 - i. the appeal is not made in good faith or is frivolous or vexatious,
 - ii. the appeal is made only for the purpose of delay, or
 - iii. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process.
3. The appellant has not provided the explanations required by clauses (8) (a.1) and (a.2).
4. The appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017* and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal.
5. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

Same

(11.0.5) Despite the *Statutory Powers Procedure Act* and subsection (11), the Tribunal may, on its own initiative or on the motion of the municipality, the planning board, the appropriate approval authority or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council or the planning board at the time of its decision.

Representation

(11.0.6) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 4 or 5 of subsection (11.0.4).

Dismissal

(11.0.7) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (11.0.4) or (11.0.5), as it considers appropriate.

Powers of L.P.A.T. — appeals under subs. (7)

(11.0.8) Subject to subsections (11.0.9) to (11.0.17), after holding a hearing on an appeal under subsection (7), the Tribunal shall dismiss the appeal.

Notice re opportunity to make new decision

(11.0.9) Unless subsection (11.0.10) or (11.0.13) applies, on an appeal under subsection (7), the Tribunal shall notify the clerk of the municipality or the secretary-treasurer of the planning board, as the case may be, that received the request for an official plan amendment that the municipality or planning board is being given an opportunity to make a new decision in respect of the matter, if the Tribunal determines that,

- (a) the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan; and
- (b) the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan.

Revised amendment with consent of parties

(11.0.10) Unless subsection (11.0.16) applies, if a revised amendment is presented to the Tribunal with the consent of all of the parties specified in subsection (11.0.19), the Tribunal shall approve the revised amendment as an official plan amendment except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of an amendment to the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

Same, notice to make new decision

(11.0.11) If subsection (11.0.10) applies and the Tribunal determines that any part of the revised amendment is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of an amendment to the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the Tribunal shall notify the clerk of the municipality or the secretary-treasurer of the planning board, as the case may be, that received the request for an official plan amendment that the municipality or planning board is being given an opportunity to make a new decision in respect of the matter.

Rules that apply if notice received

(11.0.12) If the clerk or secretary-treasurer has received notice under subsection (11.0.9) or (11.0.11), the following rules apply:

1. The council of the municipality or the planning board may prepare and adopt an amendment, subject to the following:
 - i. Subsections 17 (16) and (17.1) do not apply.
 - ii. If the amendment is not exempt from approval,
 - A. the reference to "within 210 days" in subsection 17 (40) shall be read as "within 90 days", and
 - B. subsection 17 (40.1) does not apply.
2. The references to "within 210 days after the day the request is received" in paragraphs 1 and 2 of subsection (7.0.2) shall be read as "within 90 days after the day notice under subsection (11.0.9) or (11.0.11) was received".

Second appeal

(11.0.13) Subsections (11.0.14) to (11.0.16) apply with respect to an appeal under subsection (7) that concerns a request in respect of which the municipality or planning board was given an opportunity to make a new decision in accordance with subsection (11.0.12) or subsection 17 (49.6).

Same

(11.0.14) In the case of an appeal brought in accordance with paragraph 1 or 2 of subsection (7.0.2), the Tribunal may approve all or part of the requested amendment as an official plan amendment, make modifications to all or part of the requested amendment and approve all or part of the requested amendment as modified as an official plan amendment or refuse to approve all or part of the requested amendment.

Same

(11.0.15) Unless subsection (11.0.16) applies, in the case of an appeal brought in accordance with paragraph 3 or 4 of subsection (7.0.2), the Tribunal may approve all or part of a requested amendment as an official plan amendment, make modifications to all or part of the requested amendment and approve all or part of the requested amendment as modified as an official plan amendment or refuse to approve all or part of the requested amendment, if the Tribunal determines that,

- (a) the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan; and
- (b) the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan.

Same, revised amendment with consent of parties

(11.0.16) If, on an appeal brought in accordance with paragraph 3 or 4 of subsection (7.0.2), a revised amendment is presented to the Tribunal with the consent of all of the parties specified in subsection (11.0.19), the Tribunal shall approve the revised amendment as an official plan amendment except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of an amendment to the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

Same

(11.0.17) If subsection (11.0.16) applies and the Tribunal determines that any part of the revised amendment is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case

of an amendment to the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the Tribunal may make modifications to that part of the revised amendment and approve it as modified as part of an official plan amendment or refuse to approve all or part of that part of the revised amendment.

Coming into effect

(11.0.18) If the Tribunal approves all or part of a revised amendment as an official plan amendment or part of an official plan amendment under subsection (11.0.10) or (11.0.16), the amendment or part of the amendment that is approved comes into effect as an official plan amendment or part of an official plan amendment on the day after the day the amendment or part of the amendment was approved.

Specified parties

(11.0.19) For the purposes of subsection (11.0.10) and (11.0.16), the specified parties are:

1. The municipality or planning board that received the request for an official plan amendment.
2. The appropriate approval authority, if the approval authority is a party.
3. The Minister, if the Minister is a party.
4. The person or public body that requested an amendment to the official plan.

(8) Subsection 22 (11.1) of the Act is repealed and the following substituted:

Matters of provincial interest

(11.1) Where an appeal is made to the Tribunal under this section, the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the amendment or any part of the amendment in respect of which the appeal is made, may so advise the Tribunal in writing not later than 30 days after the day the Tribunal gives notice under subsection (11) and the Minister shall identify,

- (a) the provisions of the amendment or any part of the amendment by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected.

(9) Subsection 22 (11.3) of the Act is repealed and the following substituted:

Applicable rules if notice under subs. (11.1) received

(11.3) If the Tribunal has received a notice from the Minister under subsection (11.1), the following rules apply:

1. Subsections (11.0.8) to (11.0.19) do not apply to the appeal.
2. The Tribunal may approve all or part of a requested amendment as an official plan amendment, make modifications to all or part of the requested amendment and approve all or part of the requested amendment as modified as an official plan amendment or refuse to approve all or part of the requested amendment.
3. The decision of the Tribunal is not final and binding in respect of the provisions of the amendment or the provisions of any part of the amendment identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of those provisions.

9 Subsection 28 (5) of the Act is amended by striking out “and (49) to (50.1) apply” and substituting “and (49), (50) and (50.1), as they read on the day before section 9 of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, apply”.

10 (1) Subsection 34 (11) of the Act is repealed and the following substituted:

Appeal to L.P.A.T.

(11) Subject to subsection (11.0.0.0.1), where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council fails to make a decision on it within 150 days after the receipt by the clerk of the application, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*:

1. The applicant.
2. The Minister.

Same, where amendment to official plan required

(11.0.0.0.1) If an amendment to a by-law passed under this section or a predecessor of this section in respect of which an application to the council is made would also require an amendment to the official plan of the local municipality and the application is made on the same day as the request to amend the official plan, an appeal to the Tribunal under subsection (11) may be made only if the application is refused or the council fails to make a decision on it within 210 days after the receipt by the clerk of the application.

Basis for appeal

(11.0.0.0.2) An appeal under subsection (11) may only be made on the basis that,

- (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and
- (b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans.

Same

(11.0.0.0.3) For greater certainty, council does not refuse an application for an amendment to a by-law passed under this section or a predecessor of this section or fail to make a decision on the application if it amends the by-law in response to the application, even if the amendment that is passed differs from the amendment that is the subject of the application.

Notice of Appeal

(11.0.0.0.4) A notice of appeal under subsection (11) shall,

- (a) explain how the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and
- (b) explain how the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans.

Exception

(11.0.0.0.5) Subsections (11.0.0.0.2) and (11.0.0.0.4) do not apply to an appeal under subsection (11) that concerns the failure to make a decision on an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.3).

(2) Subsection 34 (11.0.2) of the Act is repealed.

(3) Subsection 34 (12) of the Act is amended by striking out “an order of the Municipal Board made under subsection (11.0.2) or (26)” at the end of the portion before clause (a) and substituting “an order of the Tribunal made under subsection (26)”.

(4) Subsection 34 (19) of the Act is amended by striking out the portion before paragraph 1 and substituting the following:

Appeal to L.P.A.T.

(19) Not later than 20 days after the day that the giving of notice as required by subsection (18) is completed, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*:

(5) Subsection 34 (19.0.1) of the Act is repealed and the following substituted:

Basis for appeal

(19.0.1) An appeal under subsection (19) may only be made on the basis that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.

Notice of Appeal

(19.0.2) A notice of appeal under subsection (19) shall explain how the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.

(6) Subsection 34 (19.3.1) of the Act is amended by striking out “in subsection 34 (1)” and substituting “in subsection (1)”.

(7) Section 34 of the Act is amended by adding the following subsections:

No appeal re protected major transit station area – permitted uses, etc.

(19.5) Despite subsections (19) and (19.3.1), and subject to subsections (19.6) to (19.8), there is no appeal in respect of:

- (a) the parts of a by-law that establish permitted uses or the minimum or maximum densities with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15) or (16); or

- (b) the parts of a by-law that establish minimum or maximum heights with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15) or (16).

Same, by-law of a lower-tier municipality

(19.6) Subsection (19.5) applies to a by-law of a lower-tier municipality only if the municipality's official plan contains all of the policies described in subclauses 16 (16) (b) (i) and (ii) with respect to the protected major transit station area.

Exception

(19.7) Clause (19.5) (b) does not apply in circumstances where the maximum height that is permitted with respect to a building or structure on a particular parcel of land would result in the building or structure not satisfying the minimum density that is required in respect of that parcel.

Exception re Minister

(19.8) Subsection (19.5) does not apply to an appeal by the Minister.

(8) Subsection 34 (23) of the Act is repealed and the following substituted:

Record

(23) The clerk of a municipality who receives a notice of appeal under subsection (11) or (19) shall ensure that,

- (a) a record that includes the prescribed information and material is compiled;
- (b) the notice of appeal, record and fee are forwarded to the Tribunal,
 - (i) within 15 days after the last day for filing a notice of appeal under subsection (11.0.3) or (19), as the case may be, or
 - (ii) within 15 days after a notice of appeal is filed under subsection (11) with respect to the failure to make a decision; and
- (c) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal.

(9) Subsections 34 (24.3) to (24.6) of the Act are repealed.

(10) Subsection 34 (24.7) of the Act is amended by striking out "Subsections (24.1) to (24.6)" at the beginning and substituting "Subsections (24.1) and (24.2)".

(11) Subsection 34 (25) of the Act is repealed and the following substituted:

Dismissal without hearing

(25) Despite the *Statutory Powers Procedure Act* and subsection (24), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply:

1. The Tribunal is of the opinion that the explanations required by subsection (11.0.0.4) do not disclose both of the following:
 - i. That the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan.
 - ii. The amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans.
2. The Tribunal is of the opinion that the explanation required by subsection (19.0.2) does not disclose that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.
3. The Tribunal is of the opinion that,
 - i. the appeal is not made in good faith or is frivolous or vexatious,
 - ii. the appeal is made only for the purpose of delay, or
 - iii. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process.
4. The appellant has not provided the explanation required by subsection (11.0.0.4) or (19.0.2), as applicable.
5. The appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017* and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal.
6. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

(12) Subsection 34 (25.1) of the Act is amended by,

- (a) striking out “Before dismissing all or part of an appeal, the Municipal Board shall” at the beginning and substituting “Before dismissing all or part of an appeal, the Tribunal shall”; and
- (b) striking out “clause (25) (d)” at the end and substituting “paragraph 5 or 6 of subsection (25)”.

(13) Subsection 34 (25.1.1) of the Act is repealed and the following substituted:**Same**

(25.1.1) Despite the *Statutory Powers Procedure Act* and subsection (24), the Tribunal may, on its own initiative or on the motion of the municipality or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal’s opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision.

(14) Subsection 34 (26) of the Act is repealed and the following substituted:**Powers of L.P.A.T.**

(26) Subject to subsections (26.1) to (26.10) and (26.13), after holding a hearing on an appeal under subsection (11) or (19), the Tribunal shall dismiss the appeal.

Notice re opportunity to make new decision — appeal under subs. (11)

(26.1) Unless subsection (26.3), (26.6), (26.7) or (26.9) applies, on an appeal under subsection (11), the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to make a new decision in respect of the matter, if the Tribunal determines that,

- (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and
- (b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans.

Same — appeal under subs. (19)

(26.2) Unless subsection (26.3), (26.8) or (26.9) applies, if, on an appeal under subsection (19), the Tribunal determines that a part of the by-law to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan,

- (a) the Tribunal shall repeal that part of the by-law; and
- (b) the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to make a new decision in respect of the matter.

Powers of L.P.A.T. — Draft by-law with consent of parties

(26.3) Unless subsection (26.9) applies, if a draft by-law is presented to the Tribunal with the consent of all of the parties specified in subsection (26.11), the Tribunal shall approve the draft by-law except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.

Notice to make new decision

(26.4) If subsection (26.3) applies and the Tribunal determines that any part of the draft by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan, the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to make a new decision in respect of the matter.

Rules that apply if notice received

(26.5) If the clerk has received notice under subsection (26.1), clause (26.2) (b) or subsection (26.4), the following rules apply:

1. The council of the municipality may prepare and pass another by-law in accordance with this section, except that clause (12) (b) does not apply.
2. The reference to “within 150 days after the receipt by the clerk of the application” in subsection (11) shall be read as “within 90 days after the day notice under subsection (26.1), clause (26.2) (b) or subsection (26.4) was received”.

Second appeal, subs. (11) — failure to make decision

(26.6) On an appeal under subsection (11) that concerns the failure to make a decision on an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.5), the Tribunal may

amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the by-law in accordance with the Tribunal's order.

Second appeal, subs. (11) — refusal

(26.7) Unless subsection (26.9) applies, on an appeal under subsection (11) that concerns the refusal of an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.5), the Tribunal may amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the by-law in accordance with the Tribunal's order if the Tribunal determines that,

- (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and
- (b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with all applicable official plans.

Second appeal — subs. (19)

(26.8) Unless subsection (26.9) applies, on an appeal under subsection (19) that concerns a new decision that the municipality was given an opportunity to make in accordance with subsection (26.5), the Tribunal may repeal the by-law in whole or in part or amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Tribunal's order, if the Tribunal determines that the decision is inconsistent with policy statements issued under subsection 3 (1), fails to conform with or conflicts with provincial plans or fails to conform with an applicable official plan.

Draft by-law with consent of the parties

(26.9) If, on an appeal referred to in subsection (26.7) or (26.8), a draft by-law is presented to the Tribunal with the consent of all of the parties specified in subsection (26.11), the Tribunal shall approve the draft by-law as a zoning by-law except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.

Same

(26.10) If subsection (26.9) applies and the Tribunal determines that any part of the draft by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan, the Tribunal may refuse to amend the zoning by-law or amend the zoning by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the zoning by-law in accordance with the Tribunal's order.

Specified parties

(26.11) For the purposes of subsection (26.3) and (26.9), the specified parties are:

1. The municipality.
2. The Minister, if the Minister is a party.
3. If applicable, the applicant.
4. If applicable, all appellants of the decision which was the subject of the appeal.

Effect on original by-law

(26.12) If subsection (26.3) or (26.9) applies in the case of an appeal under subsection (19), the by-law that was the subject of the notice of appeal shall be deemed to have been repealed.

Non-application of s. 24 (4)

(26.13) An appeal under subsection (11) shall not be dismissed on the basis that the by-law is deemed to be in conformity with an official plan under subsection 24 (4).

(15) Subsection 34 (27) of the Act is repealed and the following substituted:

Matters of provincial interest

(27) Where an appeal is made to the Tribunal under subsection (11) or (19), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days after the day the Tribunal gives notice under subsection (24) and the Minister shall identify,

- (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected.

(16) Subsection 34 (29) of the Act is repealed and the following substituted:

Applicable rules if notice under subs. (27) received

(29) If the Tribunal has received a notice from the Minister under subsection (27), the following rules apply:

1. Subsections (26) to (26.12) do not apply to the appeal.
2. The Tribunal may make a decision as to whether the appeal should be dismissed or the by-law should be repealed or amended in whole or in part or the council of the municipality should be directed to repeal or amend the by-law in whole or in part.
3. The Tribunal shall not make an order in respect of the part or parts of the by-law identified in the notice.

(17) Subsection 34 (30) of the Act is amended by striking out “repealed or amended under subsection (26)” and substituting “repealed under subsection (26.2) or (26.8) or amended under subsection (26.8)”.

11 (1) Subsection 36 (3) of the Act is repealed and the following substituted:

Appeal to L.P.A.T.

(3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council fails to make a decision thereon within 150 days after receipt by the clerk of the application, the applicant may appeal to the Tribunal and the Tribunal shall hear the appeal and dismiss the same or amend the by-law to remove the holding symbol or direct that the by-law be amended in accordance with its order.

(2) Subsection 36 (4) of the Act is amended by striking out “Subsections 34 (10.7) and (10.9) to (25.1)” at the beginning and substituting “Subsections 34 (10.7), (10.9) to (20.4) and (22) to (34)”.

12 (1) Subsection 38 (4) of the Act is repealed and the following substituted:

Appeal to L.P.A.T. re by-law passed under subs. (1)

(4) The Minister may, within 60 days after the date of the passing of a by-law under subsection (1), appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

Appeal to L.P.A.T. re by-law passed under subs. (2)

(4.1) Any person or public body who was given notice of the passing of a by-law under subsection (2) may, within 60 days after the date of the passing of the by-law, appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

(2) Subsection 38 (5) of the Act is amended by striking out “under subsection (4), subsections 34 (23) to (26) apply” and substituting “under subsection (4) or (4.1), subsections 34 (23) to (26), as they read on the day before subsection 12 (2) of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, apply”.

13 (1) Subsection 41 (12) of the Act is repealed and the following substituted:

Appeal to L.P.A.T. re approval of plans or drawings

(12) If the municipality fails to approve the plans or drawings referred to in subsection (4) within 30 days after they are submitted to the municipality, the owner may appeal the failure to approve the plans or drawings to the Tribunal by filing with the clerk of the local municipality a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

Appeal to L.P.A.T. re requirement under subs. (7) or (8)

(12.0.1) If the owner of the land is not satisfied with any requirement made by the municipality under subsection (7) or by the upper-tier municipality under subsection (8) or with any part thereof, including the terms of any agreement required, the owner may appeal the unsatisfactory requirements, or parts thereof, including the terms of any agreement required, to the Tribunal by filing with the clerk of the local municipality a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

Record

(12.0.2) If the clerk receives a notice of appeal under subsection (12) or (12.0.1), the clerk shall ensure that the following are forwarded to the Tribunal within 15 days after the notice is filed:

1. The notice of appeal.
2. The fee.
3. The plans and drawings submitted for approval under subsection (4).
4. In the case of an appeal under subsection (12.0.1), documents that set out the requirements made by the municipality under subsection (7) or by the upper-tier municipality under subsection (8), as the case may be.

(2) Subsection 41 (12.1) of the Act is amended by,

(a) striking out “The Municipal Board shall hear” at the beginning and substituting “The Tribunal shall hear”; and

(b) striking out “and the decision of the Board is final” at the end.

(3) Subsection 41 (16) of the Act is repealed and the following substituted:

City of Toronto

(16) This section does not apply to the City of Toronto.

14 Subsection 45 (1.0.3) of the Act is amended by striking out “the following provisions apply” in the portion before paragraph 1 and substituting “the following provisions, as they read on the day before section 14 of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, apply”.

15 (1) Subsection 47 (5) of the Act is amended by striking out “and shall set out in the notice the provisions of subsections (8), (9) and (10)” at the end.

(2) Subsection 47 (8) of the Act is repealed and the following substituted:

Revocation or amendment

(8) An amendment to any order made under subsection (1), or the revocation in whole or in part of such an order, may be initiated by the Minister or on request to the Minister by any person or public body.

Consolidated Hearings Act

(8.0.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act in respect of a request under subsection (8) unless the Minister has referred the request to the Tribunal under subsection (10).

(3) Subsections 47 (9) to (14) of the Act are repealed and the following substituted:

Action by Minister

(9) If the Minister initiates an amendment or revocation of an order made under subsection (1) or receives a request to amend or revoke the order, the Minister shall give notice or cause to be given notice of the proposed amendment or revocation in such manner as the Minister considers proper and shall allow such period of time as he or she considers appropriate for the submission of representations in respect of the proposed amendment or revocation.

Referral of request under subs. (8)

(10) The Minister may refer a request made under subsection (8) to the Tribunal.

Hearing by Tribunal

(11) If the Minister refers the request to the Tribunal, the Tribunal shall conduct a hearing.

Notice of hearing

(12) Notice of the hearing shall be given in such manner and to such persons as the Tribunal may determine.

Recommendation

(13) At the conclusion of the hearing, the Tribunal shall make a written recommendation to the Minister stating whether the Minister should approve the requested amendment or revocation, in whole or in part, make modifications and approve the requested amendment or revocation as modified or refuse the requested amendment or revocation, in whole or in part, and giving reasons for the recommendation.

Notice of recommendation

(14) A copy of the recommendation of the Tribunal shall be sent to each person who appeared at the hearing and made representations and to any person who in writing requests a copy of the recommendation.

Decision to amend or revoke

(15) After considering representations received under subsection (9), if any, and the recommendation of the Tribunal under subsection (13), if there is one, the Minister may, by order, amend or revoke in whole or in part the order made under subsection (1).

Notice of decision

(16) The Minister shall forward a copy of his or her decision to amend or revoke in whole or in part the order to the clerk of each municipality or secretary-treasurer of each planning board which is within the area covered by the amendment and any person who in writing requests a copy of the decision.

16 Subsection 51 (52.4) of the Act is repealed and the following substituted:

Same

(52.4) If subsection (52.3) applies and if the approval authority so requests, the Tribunal shall not admit the information and material into evidence until subsection (52.5) has been complied with and the prescribed time period has elapsed.

17 The Act is amended by adding the following section:**Regulations re transitional matters, 2017 amendments**

70.8 (1) The Minister may make regulations providing for transitional matters respecting matters and proceedings that were commenced before or after the effective date.

Same

(2) A regulation made under this section may, without limitation,

- (a) determine which matters and proceedings may be continued and disposed of under this Act, as it read on the day before the effective date, and which matters and proceedings must be continued and disposed of under this Act, as it read on the effective date;
- (b) for the purpose of subsection (1), deem a matter or proceeding to have been commenced on the date or in the circumstances specified in the regulation.

Same

(3) If a regulation under this section provides for a matter or proceeding to be continued and disposed of in accordance with this Act as it read on the effective date where the notice of appeal was filed after the day on which the *Building Better Communities and Conserving Watersheds Act, 2017* receives Royal Assent but before the effective date, the regulation may also,

- (a) deem that the appeal was not made;
- (b) require the Tribunal to give a notice to an appellant, specifying the period of time during which a new notice of appeal may be provided to the Tribunal;
- (c) require the appellant to provide a new notice of appeal to the Tribunal within the period of time specified by the Tribunal;
- (d) deem an appeal to have been dismissed where the new notice of appeal was not received within the period of time specified in the notice;
- (e) provide that specified provisions of the Act do not apply to matters and proceedings for a period of time specified in the regulations;
- (f) provide rules regarding the application of timelines specified in a regulation under clause 43 (1) (c) of the *Local Planning Appeal Tribunal Act, 2017* to specified appeals;
- (g) provide that, despite the *Local Planning Appeal Tribunal Act, 2017*, an appellant is not required to pay a fee charged under that Act.

Conflict

(4) A regulation made under this section prevails over any provision of this Act specifically mentioned in the regulation.

Definition

(5) In this section,

“effective date” means the date on which section 17 of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force.

Conflict

(6) No cause of action arises as a direct or indirect result of,

- (a) the enactment of this section;
- (b) the making or revocation of any provision of a regulation made under this section; or
- (c) anything done or not done in accordance with this section or a regulation made under it.

No remedy

(7) No costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort or trust, is available to any person in connection with anything referred to in subsection (6).

Proceedings barred

(8) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, that is directly or indirectly based on or related to anything referred to in subsection (6) may be brought or maintained against any person.

Same

(9) Subsection (8) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before or after the coming into force of this Act.

Proceedings set aside

(10) Any proceeding referred to in subsection (8) commenced before the day section 17 of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force shall be deemed to have been dismissed, without costs, on the day that provision comes into force.

No expropriation or injurious affection

(11) Nothing done or not done in accordance with this Act or the regulations made under it constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

Person defined

(12) In this section,

“person” includes the Crown and its employees and agents, members of the Executive Council and municipalities and their employees and agents.

CITY OF TORONTO ACT, 2006

18 (1) Section 114 of the *City of Toronto Act, 2006* is amended by adding the following subsection:

Exception

(1.1) The definition of “development” in subsection (1) does not include the placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007.

(2) Subsection 114 (5) of the Act is amended by,

(a) striking out “the Ontario Municipal Board” in the portion before paragraph 1 and substituting “the Local Planning Appeal Tribunal”; and

(b) striking out “required under clause (11) (a)” at the end of paragraph 1 and substituting “required under clause (11) (a), including facilities designed to have regard for accessibility for persons with disabilities”.

(3) Paragraph 2 of subsection 114 (5) of the Act is amended by striking out “and” at the end subparagraph iv, by adding “and” at the end of subparagraph v and by adding the following subparagraph:

vi. facilities designed to have regard for accessibility for persons with disabilities.

(4) Clause 114 (11) (a) of the Act is amended by adding the following subclause:

(iv.1) facilities designed to have regard for accessibility for persons with disabilities;

(5) Subsections 114 (15) and (16) of the Act are repealed and the following substituted:

Appeal to L.P.A.T. re approval of plans or drawings

(15) If the City fails to approve the plans or drawings referred to in subsection (5) within 30 days after they are submitted to the City, the owner may appeal the failure to approve the plans or drawings to the Local Planning Appeal Tribunal by filing with the city clerk a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

Appeal to L.P.A.T. re requirement under subs. (11)

(15.1) If the owner of the land is not satisfied with any requirement made by the City under subsection (11) or with any part thereof, including the terms of any agreement required, the owner may appeal the unsatisfactory requirements, or parts thereof, including the terms of any agreement required, to the Local Planning Appeal Tribunal by filing with the city clerk a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

City clerk to forward plans and drawings, etc. to L.P.A.T.

(15.2) If the city clerk receives a notice of appeal under subsection (15) or (15.1), the city clerk shall ensure that the following are forwarded to the Local Planning Appeal Tribunal within 15 days after the notice is filed:

1. The notice of appeal.
2. The fee.
3. The plans and drawings submitted for approval under subsection (5).

4. In the case of an appeal under subsection (15.1), documents that set out the requirements made by the municipality under subsection (11).

Hearing

(16) The Local Planning Appeal Tribunal shall hear and determine the matter in issue and determine the details of the plans or drawings and determine the requirements, including the provisions of any agreement required.

19 (1) Subsections 115 (5) and (6) of the Act are repealed and the following substituted:

Power to hear appeals, etc.

- (5) The City may by by-law empower the appeal body to hear appeals or motions for directions, as the case may be, under,
- (a) subsections 114 (7), (15) and (15.1);
 - (b) subsection 45 (12) of the *Planning Act*;
 - (c) subsections 53 (4.1), (14), (19) and (27) of the *Planning Act*; or
 - (d) the provisions listed in any combination of clauses (a), (b) and (c).

Interpretation re appeals

(5.1) The following rules apply if a by-law has been passed under subsection (5) empowering the appeal body to hear motions for directions under subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*, or both:

1. References in this section to an appeal, other than in subsection (9), shall be read as including a reference to a motion for directions under either subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*, or both, as the case may be.
2. The reference in subsection (8) to an appellant shall be read as including a reference to a person or public body making a motion for directions under either subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*, or both, as the case may be.

Effect of by-law under subs. (5)

- (6) If a by-law has been passed under subsection (5),
- (a) the appeal body has all the powers and duties of the Local Planning Appeal Tribunal under this section and the relevant provisions of the *Planning Act*;
 - (b) all references in this section and section 114 and in the *Planning Act* to the Local Planning Appeal Tribunal in connection with appeals under the relevant provisions shall be read as references to the appeal body; and
 - (c) appeals under the relevant provisions shall be made to the appeal body, not to the Local Planning Appeal Tribunal.

(2) Subsection 115 (9.1) of the Act is repealed and the following substituted:

Exception

(9.1) Subsection (9) does not apply in respect of a motion for directions under subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*.

(3) Subsection 115 (11) of the Act is repealed and the following substituted:

Same

(11) For the purpose of subsections (10) and (14), an appeal is a related appeal with respect to an appeal under a provision listed in subsection (5) if it is made,

- (a) in respect of the same matter as the appeal under a provision listed in subsection (5); and
- (b) under another provision listed in subsection (5) in respect of which the appeal body has not been empowered, under section 17, 22, 34, 36, 38 or 51 of the *Planning Act* or under a regulation made under section 70.2 of that Act.

(4) Subsection 115 (12) of the Act is repealed and the following substituted:

Dispute about application of subs. (10) or (14)

(12) A person may make a motion for directions to have the Local Planning Appeal Tribunal determine a dispute about whether subsection (10) or (14) applies to an appeal.

(5) Subsection 115 (14) of the Act is repealed and the following substituted:

L.P.A.T. to assume jurisdiction

(14) If an appeal has been made to the appeal body under a provision listed in subsection (5) but no hearing has begun, and a notice of appeal is filed with the Local Planning Appeal Tribunal in respect of a related appeal, the Tribunal shall assume jurisdiction to hear the first-mentioned appeal.

(6) Subsection 115 (22) of the Act is repealed and the following substituted:

Transition

(22) This section does not apply to the following:

1. An appeal under subsection 45 (12) of the *Planning Act*, if the decision of the committee in respect of which a notice of appeal is filed is made before the day on which a by-law passed under subsection (5) of this section by the City that empowers the appeal body to hear that type of appeal comes into force.
2. An appeal under subsection 53 (19) or (27) of the *Planning Act*, if the notice under subsection 53 (17) or (24) of that Act, as the case may be, is given before the day on which a by-law passed under subsection (5) of this section by the City that empowers the appeal body to hear that type of appeal comes into force.
3. An appeal under subsection 114 (7), (15) or (15.1) of this Act or subsection 53 (4.1) or (14) of the *Planning Act*, if the appeal is made before the day on which a by-law passed under subsection (5) of this section by the City that empowers the appeal body to hear that type of appeal comes into force.

Deeming rule re appeals under subs. 53 (4.1) of the *Planning Act*

(23) If the City has, before the day subsection 19 (1) of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, passed a by-law under subsection (5) empowering the appeal body to hear appeals under subsections 53 (14), (19) and (27) of the *Planning Act*, the by-law is deemed to empower the appeal body to hear appeals under subsection 53 (4.1) of that Act that are made on or after that day.

ONTARIO PLANNING AND DEVELOPMENT ACT, 1994

20 Section 6 of the *Ontario Planning and Development Act, 1994* is amended by adding the following subsection:

Consolidated Hearings Act

(3.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act in respect of an application under subsection (1) unless the Minister has appointed a hearing officer under clause 7 (4) (a) or 8 (1) (a) or referred the matter to the Local Planning Appeal Tribunal under clause 7 (4) (b) or 8 (1) (b).

Commencement

21 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 4
AMENDMENTS TO THE CONSERVATION AUTHORITIES ACT**

1 The *Conservation Authorities Act* is amended by adding the following section:

**PART I
PURPOSE AND INTERPRETATION**

Purpose

0.1 The purpose of this Act is to provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario.

2 (1) The definitions of “administration costs” and “maintenance costs” in section 1 of the Act are repealed.

(2) Section 1 of the Act is amended by adding the following definition:

“operating expenses” include,

- (a) salaries, per diems and travel expenses of employees and members of an authority,
- (b) rent and other office costs,
- (c) program expenses,
- (d) costs that are related to the operation or maintenance of a project, but not including the project’s capital costs, and
- (e) such other costs as may be prescribed by regulation; (“dépenses d’exploitation”)

3 The Act is amended by adding the following heading immediately before section 2:

**PART II
ESTABLISHMENT OF CONSERVATION AUTHORITIES**

4 Subsection 2 (4) of the Act is amended by striking out “but, where not fewer than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time” at the end.

5 (1) Subsection 3 (1) of the Act is amended by striking out “or adjourned meeting”.

(2) Subsection 3 (5) of the Act is amended by striking out “at such rate of interest as the Minister approves”.

6 (1) Subsection 4 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Upper-tier municipalities

Regional municipalities to act in place of local municipalities

(1) An upper-tier municipality that was established as a regional municipality before the day subsection 6 (1) of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force,

(2) Subsection 4 (2) of the Act is repealed.

7 The Act is amended by adding the following heading immediately before section 10:

**PART III
ENLARGING AREAS OF JURISDICTION, AMALGAMATIONS AND DISSOLUTIONS**

8 Subsections 10 (1.1), (2), (3) and (4) of the Act are repealed and the following substituted:

Notice of meeting

(1.1) Notice of the meeting shall be given to each participating municipality of the authority and to any municipality that is completely or partly within the area specified under subsection (1).

Representatives

(2) Each municipality that receives notice of the meeting may appoint the number of representatives to attend the meeting that is determined in accordance with subsection 2 (2).

Quorum

(3) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities are entitled to appoint under subsection (2).

Resolution

(4) At a meeting held under this section at which a quorum is present, a resolution may be passed to do all of the following:

1. Agree to enlarge the area over which the authority has jurisdiction.
2. Designate participating municipalities for the enlarged area.
3. Designate the enlarged area over which the authority has jurisdiction.

Two-thirds majority vote

(5) A resolution described in subsection (4) shall be passed by a majority of at least two-thirds of the representatives present at the meeting.

Resolution in effect

(6) A resolution described in subsection (4) takes effect on such terms as it may specify despite anything to the contrary in the order in council establishing the authority.

Minister's copy

(7) The municipality that called a meeting under subsection (1) shall provide the Minister with a copy of any resolution described in subsection (4) passed at the meeting promptly after the resolution is passed.

9 (1) Subsection 11 (1) of the Act is amended by striking out "council of a municipality situated completely or partly within the jurisdiction of one of the authorities" and substituting "council of a participating municipality of one of the authorities".

(2) Subsection 11 (1.1) of the Act is repealed and the following substituted:

Notice of meeting

(1.1) Notice of the meeting shall be given to each participating municipality of the relevant authorities.

Public notice

(1.2) The body or bodies that call a meeting under subsection (1) shall ensure that, at least 14 days before the meeting, notice of the meeting is,

- (a) published in a newspaper having general circulation in each participating municipality, including in the electronic version of the newspaper where available; or
- (b) if there is no newspaper of general circulation in a participating municipality, posted on a website maintained by the municipality and in at least one prominent place in the municipality.

Public representations

(1.3) No vote shall be taken on a resolution requesting amalgamation of the authorities unless members of the public have been given an opportunity at the meeting to make representations on the issue.

(3) Subsections 11 (2) and (3) of the Act are repealed and the following substituted:

Representatives

(2) Each municipality that receives notice of the meeting may appoint the number of representatives to attend the meeting that is determined in accordance with subsection 2 (2).

Quorum

(3) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities are entitled to appoint under subsection (2).

(4) Subsection 11 (4) of the Act is repealed and the following substituted:

Resolution

(4) At a meeting held under this section at which a quorum is present, a resolution may be passed to do all of the following:

1. Establish a new authority that has jurisdiction over areas that previously were under the separate jurisdiction of the two or more existing authorities of the adjoining watersheds.
2. Dissolve the existing authorities.
3. Designate the participating municipalities for the new authority.
4. Designate the area over which the new authority has jurisdiction.

Two-thirds majority vote

(4.1) A resolution described in subsection (4) shall be passed by a majority of at least two-thirds of the representatives present at the meeting.

Approval by Minister

(4.2) The authorities or the municipality who called a meeting under subsection (1) shall submit the resolution passed in accordance with subsection (4.1) to the Minister for approval and the Minister may approve the resolution with such changes and on such terms and conditions as he or she considers appropriate.

Resolution in effect

(4.3) The resolution takes effect in accordance with the terms of the resolution and the Minister's approval.

(5) Subsection 11 (5) of the Act is amended by striking out "Upon the establishment of a new authority and the dissolution of the existing authorities under subsection (4)" at the beginning and substituting "When the establishment of a new authority and the dissolution of the existing authorities take effect under subsection (4.3)".

10 (1) Section 13.1 of the Act is amended by adding the following subsection:

Public notice

(1.1) The authority that calls a meeting under subsection (1) shall ensure that, at least 14 days before the meeting, notice of the meeting is,

- (a) published in a newspaper having general circulation in each participating municipality, including in the electronic version of the newspaper where available; or
- (b) if there is no newspaper of general circulation in a participating municipality, posted on a website maintained by the municipality and in at least one prominent place in the municipality.

(2) Subsection 13.1 (2) of the Act is amended by striking out "who were appointed by participating municipalities" at the end.

(3) Subsections 13.1 (3) and (4) of the Act are repealed.

(4) Subsection 13.1 (7) of the Act is repealed.

11 The Act is amended by adding the following heading immediately before section 14:

**PART IV
MEMBERSHIP AND GOVERNANCE**

12 (1) Subsection 14 (1) of the Act is repealed and the following substituted:

Members of authority

(1) Members of an authority shall be appointed by the respective councils of the participating municipalities in the numbers set out in subsection 2 (2) for the appointment of representatives.

(2) Subsection 14 (4) of the Act is repealed and the following substituted:

Requirements regarding composition of authority

(4) The appointment of members to an authority shall be in accordance with such additional requirements regarding the composition of the authority and the qualification of members as may be prescribed by regulation.

Term

(4.1) A member shall be appointed for a term of up to four years, as may be determined by the council that appoints the member.

Same

(4.2) A member's term begins at the first meeting of the authority after his or her appointment and expires immediately before the first meeting of the authority after the appointment of his or her replacement.

Replacement of member

(4.3) Despite subsections (4.1) and (4.2), a member may be replaced by the council of the participating municipality that appointed the member.

Reappointment

(4.4) A member is eligible to be reappointed.

13 Section 15 of the Act is amended by adding the following subsection:

Open meetings

(3) Every meeting held by the authority shall be open to the public, subject to such exceptions as may be specified in the by-laws of the authority.

14 Subsection 17 (1) of the Act is amended by striking out “At the first meeting of an authority and thereafter at the first meeting held in each year” at the beginning and substituting “At the first meeting held in each year or at such other meeting as may be specified by the authority’s by-laws”.

15 Subsection 18 (2) of the Act is repealed and the following substituted:

Advisory boards

(2) An authority shall establish such advisory boards as may be required by regulation and may establish such other advisory boards as it considers appropriate.

Same

(3) An advisory board shall comply with any requirements that may be prescribed by regulation with respect to its composition, functions, powers, duties, activities and procedures.

16 The Act is amended by adding the following section:

By-laws

19.1 (1) An authority may make by-laws,

- (a) respecting the meetings to be held by the authority, including providing for the calling of the meetings and the procedures to be followed at meetings, specifying which meetings, if any, may be closed to the public;
- (b) prescribing the powers and duties of the secretary-treasurer;
- (c) designating and empowering officers to sign contracts, agreements and other documents on behalf of the authority;
- (d) delegating all or any of its powers to the executive committee except,
 - (i) the termination of the services of the secretary-treasurer,
 - (ii) the power to raise money, and
 - (iii) the power to enter into contracts or agreements other than those contracts or agreements as are necessarily incidental to the works approved by the authority;
- (e) providing for the composition of its executive committee and for the establishment of other committees that it considers advisable and respecting any other matters relating to its governance;
- (f) respecting the roles and responsibilities of the members of the authority and of its officers and senior staff;
- (g) requiring accountability and transparency in the administration of the authority including,
 - (i) providing for the retention of records specified in the by-laws and for making the records available to the public,
 - (ii) establishing a code of conduct for the members of the authority, and
 - (iii) adopting conflict of interest guidelines for the members of the authority;
- (h) respecting the management of the authority’s financial affairs, including auditing and reporting on the authority’s finances;
- (i) respecting the by-law review required under subsection (3) and providing for the frequency of the reviews; and
- (j) respecting such other matters as may be prescribed by regulation.

Conflict with other laws

(2) If a by-law made by an authority conflicts with any provision of the *Municipal Conflict of Interest Act* or the *Municipal Freedom of Information and Protection of Privacy Act* or a provision of a regulation made under one of those Acts, the provision of the Act or regulation prevails.

Periodic review of by-laws

(3) At such regular intervals as may be determined by by-law, an authority shall undertake a review of all of its by-laws to ensure, amongst other things, that the by-laws are in compliance with any Act referred to in subsection (2) or any other relevant law.

By-laws available to public

(4) An authority shall make its by-laws available to the public in the manner it considers appropriate.

Transition

- (5) An authority shall make such by-laws under this section as are required for its proper administration,
- (a) in the case of an authority that was established on or before the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, within one year of that day; and
 - (b) in the case of an authority that is established after the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, within one year of the day the authority is established.

Same

(6) Despite the repeal of section 30 by section 28 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017*, a regulation that was made by an authority under that section continues in force after the repeal until the earlier of,

- (a) the day that is one year after the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force; and
- (b) the day the regulation is revoked by the authority.

Direction by Minister

(7) The Minister may give an authority a written direction to make or amend a by-law on any matter described in subsection (1), in accordance with the direction, within such period of time as may be specified in the direction.

Compliance

(8) The authority that receives a direction under subsection (7) shall comply with the direction within the time specified in the direction.

Regulation where failure to comply

(9) If an authority fails to adopt a by-law in accordance with the direction made under subsection (7), the Minister may make regulations in relation to the matters set out in the direction that are applicable in the area of jurisdiction of the authority.

Same

(10) Any regulation made by the Minister under subsection (9) prevails over any conflicting by-law that the authority may have adopted.

17 The Act is amended by adding the following heading immediately before section 20:

**PART V
OBJECTS, POWERS AND DUTIES**

18 Subsection 20 (1) of the Act is amended by striking out “to establish and undertake, in the area over which it has jurisdiction, a program designed” and substituting “to provide, in the area over which it has jurisdiction, programs and services designed”.

19 (1) Clause 21 (1) (a) of the Act is amended by striking out “a program” and substituting “programs and services”.

(2) Clause 21 (1) (f) of the Act is amended by adding “or to further the authority’s objects” at the end.

(3) Clause 21 (1) (m.1) of the Act is repealed.

(4) Clause 21 (1) (n) of the Act is amended by adding “and individuals” at the end.

(5) Clause 21 (1) (q) of the Act is amended by adding “or as may be desirable to further the objects of the authority” at the end.

20 (1) The Act is amended by adding the following section:

Programs and services

21.1 (1) The following are the programs and services that an authority is required or permitted to provide within its area of jurisdiction:

1. Mandatory programs and services that are required by regulation.
2. Municipal programs and services that the authority agrees to provide on behalf of municipalities situated in whole or in part within its area of jurisdiction under a memorandum of understanding referred to in subsection (3).
3. Such other programs and services as the authority may determine are advisable to further its objects.

Mandatory programs and services

(2) Programs and services referred to in paragraph 1 of subsection (1) shall be provided in accordance with such standards and requirements as may be set out in the regulations.

Memorandum of understanding with municipalities

(3) An authority may enter into a memorandum of understanding with a municipality situated in whole or in part within its area of jurisdiction in respect of programs and services that the authority will provide on behalf of the municipality.

Periodic review of memorandum

(4) An authority and a municipality who have entered into a memorandum of understanding described in subsection (3) shall review the memorandum at such regular intervals as may be determined by the memorandum.

Municipal programs and services

(5) Programs and services that an authority agrees to provide on behalf of a municipality shall be provided in accordance with the terms and conditions set out in the memorandum of understanding or in such other agreement as may be entered into by the authority and the municipality.

Consultation

(6) An authority shall carry out such consultations with respect to the programs and services it provides as may be required by regulation and shall do so in the manner specified by regulation.

(2) Section 21.1 of the Act, as enacted by subsection (1), is amended by adding the following subsection:

Memorandum available to public

(3.1) An authority shall make a memorandum of understanding referred to in subsection (3) available to the public in such manner as may be determined in the memorandum.

21 The Act is amended by adding the following section:

Fees for programs and services

21.2 (1) The Minister may determine classes of programs and services in respect of which an authority may charge a fee.

Publication of list

(2) The Minister shall publish the list of classes of programs and services in respect of which an authority may charge a fee in a policy document and distribute the document to each authority.

Updating list

(3) If the Minister makes changes to the list of classes of programs and services in respect of which an authority may charge a fee, the Minister shall promptly update the policy document referred to in subsection (2) and distribute the new document to each authority.

Where authority may charge fee

(4) An authority may charge a fee for a program or service that it provides only if it is set out on the list of classes of programs and services referred to in subsection (2).

Amount of fee

(5) The amount of a fee charged by an authority for a program or service it provides shall be,

- (a) the amount prescribed by the regulations; or
- (b) if no amount is prescribed, the amount determined by the authority.

Fee schedule

(6) Every authority shall prepare and maintain a fee schedule that sets out,

- (a) the list of programs and services that it provides and in respect of which it charges a fee; and
- (b) the amount of the fee charged for each program or service or the manner in which the fee is determined.

Fee policy

(7) Every authority shall adopt a written policy with respect to the fees that it charges for the programs and services it provides, and the policy shall set out,

- (a) the fee schedule described in subsection (6);
- (b) the frequency within which the fee policy shall be reviewed by the authority under subsection (9);
- (c) the process for carrying out a review of the fee policy, including the rules for giving notice of the review and of any changes resulting from the review; and
- (d) the circumstances in which a person may request that the authority reconsider a fee that was charged to the person and the procedures applicable to the reconsideration.

Fee policy to be made public

(8) Every authority shall make the fee policy available to the public in a manner it considers appropriate.

Periodic review of fee policy

(9) At such regular intervals as may be determined by an authority, the authority shall undertake a review of its fee policy, including a review of the fees set out in the fee schedule.

Notice of fee changes

(10) If, after a review of a fee policy or at any other time, an authority wishes to make a change to the list of fees set out in the fee schedule or to the amount of any fee or the manner in which a fee is determined, the authority shall give notice of the proposed change to the public in a manner it considers appropriate.

Reconsideration of fee charged

(11) Any person who considers that the authority has charged a fee that is contrary to the fees set out in the fee schedule, or that the fee set out in the fee schedule is excessive in relation to the service or program for which it is charged, may apply to the authority in accordance with the procedures set out in the fee policy and request that it reconsider the fee that was charged.

Powers of authority on reconsideration

(12) Upon reconsideration of a fee that was charged for a program or service provided by an authority, the authority may,

- (a) order the person to pay the fee in the amount originally charged;
- (b) vary the amount of the fee originally charged, as the authority considers appropriate; or
- (c) order that no fee be charged for the program or service.

22 The Act is amended by adding the following section:**Information required by Minister**

23.1 (1) An authority shall provide the Minister with such information as the Minister may require in relation to its operations, including the programs and services it provides.

Same

(2) The information shall be provided at the time and in the manner as the Minister may specify.

Publication

(3) If directed by the Minister to do so, an authority shall publish all or such portion of the information provided to the Minister under subsection (1) and shall do so at the time and in the manner specified by the Minister.

23 Sections 24, 25 and 26 of the Act are repealed and the following substituted:**Projects requiring approval**

24 Before proceeding with a project that involves money granted by the Minister under section 39, the authority shall file plans and a description with the Minister and obtain his or her approval in writing.

Recovery of project capital costs

25 (1) An authority may, from time to time, determine the amount of capital costs to be incurred in connection with a project and apportion the capital costs to the participating municipalities in accordance with the regulations.

Notice of apportionment

(2) An authority shall send a notice of apportionment in writing to each participating municipality setting out the amount of the capital costs for a project that has been apportioned to the participating municipality.

Payment of apportioned amount

(3) Each participating municipality shall pay to the authority the portion of the capital costs for a project that is specified in the notice of apportionment in accordance with the requirements set out in the notice and with this section.

How money to be raised

(4) Each participating municipality may issue debentures to provide financing for the capital costs for a project of an authority.

Where money raised over several years

(5) If the notice of apportionment requires a municipality to raise its portion of the capital costs for a project over a period of two or more years, the municipality shall, within 30 days of receiving the notice of apportionment, give the authority written notice of how it will pay its portion of the capital costs.

Debt due

(6) The amount of the portion of the capital costs for a project that is specified in a notice of apportionment sent to a participating municipality is a debt due by the participating municipality to the authority and may be enforced by the authority as such.

Review of apportionment of capital costs

26 (1) Any participating municipality that receives a notice of apportionment under section 25 may, within 30 days after receiving the notice of apportionment, apply to the Ontario Municipal Board, or to such other body as may be prescribed by regulation, for a review of the apportionment among the participating municipalities of the capital costs for the relevant project.

Same

(2) The participating municipality that makes an application under subsection (1) shall send a copy of the notice of application to the authority and to every other participating municipality of the authority.

Hearing

(3) The Ontario Municipal Board, or such other body as may be prescribed by regulation, shall hold a hearing to reconsider the apportionment of capital costs among the participating municipalities, including considering whether the apportionment complies with section 25 and the regulations and whether the portion apportioned to the municipality is otherwise appropriate.

Parties

(4) The parties to the hearing are the applicant municipality, the authority, any other participating municipality of the authority that requests to be a party, and such other persons as the Ontario Municipal Board, or such other body as may be prescribed by regulation, may determine.

Requirement to pay costs stayed

(5) A participating municipality that makes an application under this section is not required to pay the portion of the capital costs that was apportioned to the municipality under the notice of apportionment until the determination of the application.

Delay of notice

(6) A participating municipality that makes an application under this section is not required to give notice under subsection 25 (5) until 30 days after the final determination of the application.

Powers on hearing

(7) Upon hearing an application under this section, the Ontario Municipal Board, or such other body as may be prescribed by regulation, may confirm or vary the apportionment of the capital costs by the authority among the participating municipalities.

Decision final

(8) A decision under subsection (7) is final.

24 (1) Section 27 of the Act is repealed and the following substituted:**Recovery of operating expenses**

27 (1) Every year an authority shall determine its operating expenses for the subsequent year and apportion those expenses to the participating municipalities in accordance with the regulations.

Fixed portion for some municipalities

(2) Despite subsection (1) and subject to the regulations, an authority may establish a fixed minimal amount as the portion of the authority's operating expenses that a participating municipality is required to pay each year, and may apportion that amount to the municipality instead of the portion determined under subsection (1) in any year in which the fixed minimal amount exceeds the portion determined under subsection (1).

Notice of apportionment

(3) An authority shall send a notice of apportionment in writing to each participating municipality setting out the amount of the operating expenses that has been apportioned to the participating municipality.

Payment of apportioned amount

(4) Each participating municipality shall pay to the authority the portion of the operating expenses that is specified in the notice of apportionment in accordance with the requirements set out in the notice and with this section.

Debt due

(5) The amount of the portion of the operating expenses specified in a notice of apportionment sent to a participating municipality is a debt due by the participating municipality to the authority and may be enforced by the authority as such.

Review of apportionment of operating expenses

27.1 (1) Any participating municipality that receives a notice of apportionment under section 27 may, within 30 days of receiving the notice, apply to the Mining and Lands Commissioner, or to such other body as may be prescribed by regulation, for a review of the apportionment of the operating expenses.

Same

(2) The participating municipality that makes an application under subsection (1) shall send a copy of the notice of application to the authority and to every other participating municipality of the authority.

Hearing

(3) The Mining and Lands Commissioner, or such other body as may be prescribed by regulation, shall hold a hearing to reconsider the apportionment of the operating expenses, including considering whether the apportionment complies with section 27 and the regulations and whether the portion apportioned to the municipality is otherwise appropriate.

Parties

(4) The parties to the hearing are the applicant municipality, the authority, any other participating municipality of the authority that requests to be a party and such other persons as the Mining and Lands Commissioner, or such other body as may be prescribed by regulation, may determine.

No stay

(5) The appellant municipality shall comply with the notice of apportionment pending the determination of the application.

Powers on hearing

(6) Upon hearing an application under this section, the Mining and Lands Commissioner, or such other body as may be prescribed by regulation, may confirm or vary the apportionment of the operating expenses by the authority among the participating municipalities and may order participating municipalities to pay such portion of the operating expenses as it determines.

Decision final

(7) A decision under subsection (6) is final.

(2) Section 27.1 of the Act, as enacted by subsection (1), is amended by striking out “Mining and Lands Commissioner” wherever it appears and substituting in each case “Mining and Lands Tribunal”.

25 Section 28 of the Act is repealed and the following substituted:

PART VI**REGULATION OF AREAS OVER WHICH AUTHORITIES HAVE JURISDICTION****Prohibited activities re watercourses, wetlands, etc.**

28 (1) Subject to subsections (2), (3) and (4) and section 28.1, no person shall carry on the following activities, or permit another person to carry on the following activities, in the area of jurisdiction of an authority:

1. Activities to straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or to change or interfere in any way with a wetland.
2. Development activities in areas that are within the authority’s area of jurisdiction and are,
 - i. hazardous lands,
 - ii. wetlands,
 - iii. river or stream valleys the limits of which shall be determined in accordance with the regulations,
 - iv. areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to an inland lake and that may be affected by flooding, erosion or dynamic beach hazards, such areas to be further determined or specified in accordance with the regulations, or
 - v. other areas in which development should be prohibited or regulated, as may be determined by the regulations.

Exception, aggregates

(2) The prohibitions in subsection (1) do not apply to an activity approved under the *Aggregate Resources Act* after December 18, 1998, the date the *Red Tape Reduction Act, 1998* received Royal Assent.

Same, prescribed activities

(3) The prohibitions in subsection (1) do not apply to an activity or a type of activity that is prescribed by regulation and is carried out in accordance with the regulations.

Same, prescribed areas

(4) The prohibitions in subsection (1) do not apply to any activity described in that subsection if it is carried out.

- (a) in an area that is within an authority's area of jurisdiction and specified in the regulations; and
- (b) in accordance with any conditions specified in the regulations.

Definitions

(5) In this section,

"development activity" means a development activity as defined by regulation; ("activité d'aménagement")

"hazardous land" means hazardous land as defined by regulation; ("terrain dangereux")

"watercourse" means a watercourse as defined by regulation; ("cours d'eau")

"wetland" means a wetland as defined by regulation. ("terre marécageuse")

Permits

28.1 (1) An authority may issue a permit to a person to engage in an activity specified in the permit that would otherwise be prohibited by section 28, if, in the opinion of the authority,

- (a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or pollution or the conservation of land;
- (b) the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; and
- (c) any other requirements that may be prescribed by the regulations are met.

Application for permit

(2) A person who wishes to engage in an activity that is prohibited under section 28 in an area situated in the jurisdiction of an authority may apply to the authority for a permit under this section.

Same

(3) An application for a permit shall be made in accordance with the regulations and include such information as is required by regulation.

Conditions

(4) Subject to subsection (5), an authority may issue a permit with or without conditions.

Hearing

(5) An authority shall not refuse an application for a permit or attach conditions to a permit unless the applicant for the permit has been given an opportunity to be heard by the authority.

Renewable energy projects

(6) In the case of an application for a permit to engage in development related to a renewable energy project as defined in subsection 1 (1) of the *Green Energy Act, 2009*,

- (a) the authority shall not refuse the permit unless it is of the opinion that it is necessary to do so to control pollution, flooding, erosion or dynamic beaches; and
- (b) despite subsection (4), the authority shall not impose conditions on the permit unless the conditions relate to controlling pollution, flooding, erosion or dynamic beaches.

Reasons for decision

(7) If the authority, after holding a hearing, refuses a permit or issues the permit subject to conditions, the authority shall give the applicant written reasons for the decision.

Appeal

(8) An applicant who has been refused a permit or who objects to conditions imposed on a permit may, within 30 days of receiving the reasons under subsection (7), appeal to the Minister who may,

- (a) refuse the permit; or
- (b) order the authority to issue the permit, with or without conditions.

Definition

(9) In this section,

“pollution” means pollution as defined by regulation.

Period of validity

28.2 A permit shall be valid for a period to be determined in accordance with the regulations.

Cancellation of permits

28.3 (1) An authority may cancel a permit issued under section 28.1 if it is of the opinion that the conditions of the permit have not been met or that the circumstances that are prescribed by regulation exist.

Notice

(2) Before cancelling a permit, an authority shall give a notice of intent to cancel to the permit holder indicating that the permit will be cancelled on a date specified in the notice unless the holder requests a hearing under subsection (3).

Request for hearing

(3) Within 15 days of receiving a notice of intent to cancel a permit from the authority, the permit holder may submit a written request for a hearing to the authority.

Hearing

(4) The authority shall set a date for the hearing and hold the hearing within a reasonable time after receiving a request for a hearing.

Power

(5) After a hearing, the authority may confirm, rescind or vary the decision to cancel a permit.

Delegation of power

28.4 An authority may delegate any of its powers relating to the issuance or cancellation of permits under this Act or the regulations, or to the holding of hearings in relation to the permits, to the authority’s executive committee or to any other person or body, subject to any limitations or requirements that may be prescribed by regulation.

26 The Act is amended by adding the following section:**Regulations: activities affecting natural resources**

28.5 (1) The Lieutenant Governor in Council may make regulations with respect to activities that may impact the conservation, restoration, development or management of natural resources and that may be carried out in the areas of jurisdiction of authorities, including regulations,

- (a) identifying activities that have or may have an impact on the conservation, restoration, development or management of natural resources for the purposes of the regulation;
- (b) regulating those activities;
- (c) prohibiting those activities or requiring that a person obtain a permit from the relevant authority to engage in the activities in the authority’s area of jurisdiction.

Same

(2) A regulation under clause (1) (c) that requires that a person obtain a permit from the relevant authority to engage in an activity described in subsection (1) may,

- (a) provide for applications to be made to an authority for the permit and specify the manner, content and form of the application;
- (b) provide for the issuance, expiration, renewal and cancellation of a permit;
- (c) require hearings in relation to any matter referred to in clauses (a) and (b) and specify the person before whom, or the body before which, the matter shall be heard, provide for notices and other procedural matters relating to the hearing and provide for an appeal from any decision.

Same

(3) A regulation made under this section may be limited in its application to one or more authorities or activities.

27 (1) Subsection 29 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Regulations: public use of authority’s property

(1) The Minister may make regulations with respect to land and other property owned by authorities including regulations,

(2) Subsections 29 (1.1), (1.2) and (2) of the Act are repealed and the following substituted:

Same

(2) A regulation made under this section may be limited in its application to one or more authorities.

28 Section 30 of the Act is repealed.

29 Section 30.1 of the Act is repealed and the following substituted:

PART VII ENFORCEMENT AND OFFENCES

Appointment of officers

30.1 An authority may appoint officers for the purposes of ensuring compliance with this Act and the regulations.

Entry without warrant

30.2 (1) An officer appointed by an authority under section 30.1 may, subject to subsections (2) and (3), enter any land situated in the authority's area of jurisdiction for the purposes of determining compliance with subsection 28 (1), a regulation made under subsection 28 (3) or section 28.5 or with the conditions of a permit issued under section 28.1 or under a regulation made under clause 28.5 (1) (c).

No entry to buildings

(2) The power to enter land under subsection (1) does not authorize the entry into a dwelling or other building situated on the land.

Time of entry

(3) The power to enter land under subsection (1) may be exercised at any reasonable time.

Power upon entry

(4) An officer who enters land under subsection (1) may do any of the following things:

1. Inspect any thing that is relevant to the inspection.
2. Conduct any tests, take any measurements, take any specimens or samples, set up any equipment and make any photographic or other records that may be relevant to the inspection.
3. Ask any questions that are relevant to the inspection to the occupant of the land.

No use of force

(5) Subsection (1) does not authorize the use of force.

Experts, etc.

(6) An officer who enters land under this section may be accompanied and assisted by any person with such knowledge, skills or expertise as may be required for the purposes of the inspection.

Searches

Search with warrant

30.3 (1) An officer may obtain a search warrant under Part VIII of the *Provincial Offences Act* in respect of an offence under this Act.

Assistance

(2) The search warrant may authorize any person specified in the warrant to accompany and assist the officer in the execution of the warrant.

Search without warrant

(3) If an officer has reasonable grounds to believe that there is something on land that will afford evidence of an offence under this Act but that the time required to obtain a warrant would lead to the loss, removal or destruction of the evidence, the officer may, without warrant, enter and search the land.

No entry to buildings

(4) The power to enter land under subsection (3) does not authorize the entry into a dwelling or other building situated on the land.

Stop order

30.4 (1) An officer appointed under section 30.1 may make an order requiring a person to stop engaging in or not to engage in an activity if the officer has reasonable grounds to believe that the person is engaging in the activity, has engaged in the activity or is about to engage in the activity and, as a result, is contravening,

- (a) subsection 28 (1) or a regulation made under subsection 28 (3) or under section 28.5; or
- (b) the conditions of a permit that was issued under section 28.1 or under a regulation made under clause 28.5 (1) (c).

Information to be included in order

(2) The order shall,

- (a) specify the provision that the officer believes is being, has been or is about to be contravened;
- (b) briefly describe the nature of the contravention and its location; and
- (c) state that a hearing on the order may be requested in accordance with this section.

Service of order

(3) An order under this section shall be served personally or by registered mail addressed to the person against whom the order is made at the person's last known address.

Registered mail

(4) An order served by registered mail shall be deemed to have been served on the fifth day after the day of mailing, unless the person served establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the order until a later date.

Effective date

(5) An order under this section takes effect when it is served, or at such later time as is specified in the order.

Right to hearing

(6) A person who is served with an order under this section may request a hearing before the authority or, if the authority so directs, before the authority's executive committee by mailing or delivering to the authority, within 30 days after service of the order, a written request for a hearing that includes a statement of the reasons for requesting the hearing.

Powers of authority

(7) After holding a hearing, the authority or executive committee, as the case may be, shall,

- (a) confirm the order;
- (b) amend the order; or
- (c) remove the order, with or without conditions.

Reasons for decision

(8) The authority or executive committee, as the case may be, shall give the person who requested the hearing written reasons for the decision.

Appeal

(9) Within 30 days after receiving the reasons mentioned in subsection (8), the person who requested the hearing may appeal to the Minister and, after reviewing the submissions, the Minister may,

- (a) confirm the order;
- (b) amend the order; or
- (c) remove the order, with or without conditions.

Offences

30.5 (1) Every person is guilty of an offence if he or she contravenes,

- (a) subsection 28 (1) or a regulation made under subsection 28 (3) or under section 28.5;
- (b) the conditions of a permit that was issued under section 28.1 or under a regulation made under clause 28.5 (1) (c); or
- (c) a stop order issued under section 30.4.

Penalty

(2) A person who commits an offence under subsection (1) is liable on conviction,

- (a) in the case of an individual,

- (i) to a fine of not more than \$50,000 or to a term of imprisonment of not more than three months, or to both, and
 - (ii) to an additional fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues; and
- (b) in the case of a corporation,
- (i) to a fine of not more than \$1,000,000, and
 - (ii) to an additional fine of not more than \$200,000 for each day or part of a day on which the offence occurs or continues.

Monetary benefit

(3) Despite the maximum fines set out in clauses (2) (a) and (b), a court that convicts a person of an offence under clause (1) (a) or (b) may increase the fine it imposes on the person by an amount equal to the amount of the monetary benefit that was acquired by the person, or that accrued to the person, as a result of the commission of the offence.

Contravening s. 29 regulations

(4) Every person who contravenes a regulation made under section 29 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Obstruction of officer

(5) Every person who prevents or obstructs an officer from entering land under section 30.2 or 30.3 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Limitation period

30.6 A proceeding shall not be commenced with respect to an offence under subsection 30.5 (1), (4) or (5) more than two years after the day on which the offence first comes to the attention of an officer appointed under section 30.1.

Rehabilitation orders

30.7 (1) In addition to any other remedy or penalty provided by law, the court, upon convicting a person of an offence under clause 30.5 (1) (a) or (b), may order the convicted person to,

- (a) remove, at the convicted person's expense, any development within such reasonable time as the court orders; and
- (b) take such actions as the court directs, within the time the court may specify, to repair or rehabilitate the damage that results from or is in any way connected to the commission of the offence.

Non-compliance with order

(2) If a person does not comply with an order made under subsection (1), the authority having jurisdiction may arrange for any removal, repair or rehabilitation that was required of a person under subsection (1) to be carried out.

Liability for certain costs

(3) The person to whom an order is made under subsection (1) is liable for the cost of any removal, repair or rehabilitation arranged by an authority under subsection (2), and the amount is recoverable by the authority by action in a court of competent jurisdiction.

30 The Act is amended by adding the following heading immediately before section 31:

PART VIII MATTERS RELATING TO LAND AND WATER USE

31 The Act is amended by adding the following heading immediately before section 36:

PART IX MISCELLANEOUS

32 Section 37 of the Act is repealed and the following substituted:

Spending by authority

37 All money that is paid to an authority for specified purposes under this Act may be spent by the authority as it considers proper.

33 (1) Section 40 of the Act is repealed and the following substituted:

Regulations, Lieutenant Governor in Council

40 (1) The Lieutenant Governor in Council may make regulations,

- (a) governing the composition of conservation authorities and prescribing additional requirements regarding the appointment and qualifications of members of conservation authorities;

- (b) governing advisory boards established under subsection 18 (2), including requiring authorities to establish one or more advisory boards and prescribing requirements with respect to the composition, functions, powers, duties, activities and procedures of any advisory board that is established;
- (c) governing programs and services provided by authorities under paragraph 1 of subsection 21.1 (1), requiring authorities to provide those programs and services and respecting standards and requirements applicable to those programs and services;
- (d) governing the apportionment of an authority's capital costs in connection with a project for the purposes of section 25;
- (e) governing reviews under sections 26 and 27.1, including prescribing a body that may conduct such reviews instead of the Ontario Municipal Board or the Mining and Lands Commissioner, as the case may be;
- (f) governing the apportionment of an authority's operating expenses for the purposes of section 27, prescribing expenses as operating expenses for the purposes of section 27, governing the amount that participating municipalities are required to pay under section 27, including the fixed amount that a participating municipality may be required to pay under subsection 27 (2), and restricting and prohibiting the apportionment of certain types of operating expenses;
- (g) defining any term that is used in this Act and that is not defined in this Act;
- (h) respecting anything that is necessary or advisable for the proper administration of this Act.

Same

(2) The standards and requirements established for programs and services in a regulation made under clause (1) (c) may include standards and requirements to mitigate the impacts of climate change and provide for adaptation to a changing climate, including through increasing resiliency.

Regulations, Minister

(3) The Minister may make regulations,

- (a) prescribing matters that may be the subject of by-laws made under clause 19.1 (1) (j);
- (b) respecting the amount of any fee that may be charged by an authority in relation to a program or service, including determining the manner in which the fee is calculated;
- (c) governing consultations that an authority must carry out for the purposes of subsection 21.1 (6);
- (d) governing the information that authorities must provide to the Minister under section 23.1, including the publication of that information;
- (e) governing the prohibitions set out in section 28, including,
 - (i) prescribing the limits on river and stream valleys for the purposes of subparagraph 2 iii of subsection 28 (1),
 - (ii) determining or specifying areas for the purposes of subparagraph 2 iv of subsection 28 (1),
 - (iii) determining areas in which development should be prohibited or regulated for the purposes of subparagraph 2 v of subsection 28 (1),
 - (iv) prescribing activities or types of activities to which the prohibitions set out in subsection 28 (1) do not apply and respecting the manner or circumstances in which the activities or types of activities may be carried out and any conditions or restrictions that apply to the activity or type of activity,
 - (v) prescribing areas in which the prohibitions set out in subsection 28 (1) do not apply and respecting the manner or circumstances in which the activities may be carried out in such areas and any conditions or restrictions that apply to carrying out activities in such areas,
 - (vi) defining "development activity", "hazardous land", "watercourse" and "wetland" for the purposes of section 28;
- (f) governing applications for permits under section 28.1, the issuance of the permits and the power of authorities to refuse permits, including prescribing requirements that must be met for the issuance of permits under clause 28.1 (1) (c), conditions that may be attached to a permit or circumstances in which a permit may be cancelled under section 28.3 and respecting the period for which a permit is valid;
- (g) defining "pollution" for the purposes of the Act;
- (h) governing the delegation of powers by an authority under section 28.4 and prescribing any limitations or requirements related to the delegation.

(2) Clause 40 (1) (e) of the Act, as enacted by subsection (1), is amended by striking out "Mining and Lands Commissioner" and substituting "Mining and Lands Tribunal".

34 The Act is amended by adding the following section:

Rolling incorporations

41 A regulation made under this Act that adopts a document by reference may adopt the document as it may be amended from time to time after the regulation is made.

Commencement

35 (1) Subject to subsections (2) and (3), this Schedule comes into force on the day the *Building Better Communities and Conserving Watersheds Act, 2017* receives Royal Assent.

(2) Section 13 comes into force one year after the day the *Building Better Communities and Conserving Watersheds Act, 2017* receives Royal Assent.

(3) Section 2, subsections 19 (3) and 20 (2) and sections 21, 23, 24, 25, 26, 27, 29 and 33 come into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 5
AMENDMENTS TO VARIOUS ACTS CONSEQUENTIAL TO THE ENACTMENT OF THE LOCAL PLANNING
APPEAL TRIBUNAL ACT, 2017

AGGREGATE RESOURCES ACT

1 The definition of “Board” in subsection 1 (1) of the *Aggregate Resources Act* is repealed.

2 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Local Planning Appeal Tribunal”:

- 1.** Subsections 11 (9), (11), (12), (13) and (14).
- 2.** Subsections 12 (1) and (2).
- 3.** Subsections 13 (6) to (9).
- 4.** Subsections 16 (8) to (11).
- 5.** Subsections 18 (5) to (8).
- 6.** Subsections 20 (4), (6), (7) and (8).

3 (1) Subsections 11 (5) to (8) of the Act are repealed and the following substituted:

Referral to Local Planning Appeal Tribunal

(5) The Minister may refer the application and any objections arising out of the notification and consultation procedures that are prescribed or set out in a custom plan to the Local Planning Appeal Tribunal for a hearing, and may direct that the Local Planning Appeal Tribunal shall determine only the issues specified in the referral.

Parties

(6) The parties to the hearing are,

- (a) the applicant;
- (b) the person who made the objection;
- (c) the Minister, if he or she notifies the Local Planning Appeal Tribunal of his or her intention to be a party; and
- (d) such other persons as are specified by the Local Planning Appeal Tribunal.

Combined hearing

(7) The Local Planning Appeal Tribunal may consider an application and objections referred to the Local Planning Appeal Tribunal under subsection (5) and a related appeal to the Local Planning Appeal Tribunal under the *Planning Act* at the same hearing.

Powers of Local Planning Appeal Tribunal

(8) The following rules apply if an application is referred to the Local Planning Appeal Tribunal:

1. The Local Planning Appeal Tribunal may hold a hearing and direct the Minister to issue the licence subject to the prescribed conditions and to any additional conditions specified by the Local Planning Appeal Tribunal, but the Minister may refuse to impose an additional condition specified by the Local Planning Appeal Tribunal if he or she is of the opinion that the condition is not consistent with the purposes of this Act.
2. The Local Planning Appeal Tribunal may hold a hearing and direct the Minister to refuse to issue the licence.
3. If the Local Planning Appeal Tribunal is of the opinion that an objection referred to it is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay, the Local Planning Appeal Tribunal may, without holding a hearing, on its own initiative or on a party's motion, refuse to consider the objection. If consideration of all the objections referred to the Local Planning Appeal Tribunal in connection with an application is refused in this way, the Local Planning Appeal Tribunal may direct the Minister to issue the licence subject to the prescribed conditions.
4. If all of the parties to a hearing, other than the applicant, withdraw before the commencement of the hearing, the Local Planning Appeal Tribunal may refer the application back to the Minister and the Minister shall decide whether to issue or refuse to issue the licence.

(2) Subsection 11 (15) of the Act is repealed and the following substituted:

No petition or review

(15) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

4 Subsection 13 (10) of the Act is repealed and the following substituted:**No petition or review**

(10) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

5 Subsection 16 (12) of the Act is repealed and the following substituted:**No petition or review**

(12) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

6 Subsection 18 (9) of the Act is repealed and the following substituted:**No petition or review**

(9) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

7 Subsection 20 (9) of the Act is repealed and the following substituted:**No petition or review**

(9) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

CITY OF TORONTO ACT, 2006

8 Subsection 9 (2) of the *City of Toronto Act, 2006* is amended by striking out “with the approval of the Ontario Municipal Board” and substituting “with the approval of the Local Planning Appeal Tribunal”.

9 (1) Subsection 114 (7) of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

(2) Subsection 114 (8) of the Act is amended by striking out “The Ontario Municipal Board’s determination” at the beginning and substituting “The Local Planning Appeal Tribunal’s determination”.

10 (1) Subsection 115 (10) of the Act is repealed and the following substituted:**Exception, related appeals**

(10) Despite subsection (6), an appeal under a provision listed in subsection (5) shall be made to the Local Planning Appeal Tribunal, not to the appeal body, if a related appeal,

- (a) has previously been made to the Tribunal and has not yet been finally disposed of; or
- (b) is made to the Tribunal together with the appeal under a provision listed in subsection (5).

(2) Subsection 115 (13) of the Act is amended by striking out “The Ontario Municipal Board’s determination” at the beginning and substituting “The Local Planning Appeal Tribunal’s determination”.

(3) Subsection 115 (15) of the Act is repealed and the following substituted:**Same**

(15) When the Local Planning Appeal Tribunal assumes jurisdiction as described in subsection (14), the appeal body,

- (a) shall immediately forward to the Tribunal all information and material in its possession that relates to the appeal; and
- (b) shall not take any further action with respect to the appeal.

(4) Subsection 115 (18) of the Act is repealed and the following substituted:**Effect of withdrawal**

(18) If an order is made under subsection (16),

- (a) the Local Planning Appeal Tribunal shall hear all appeals to which the order applies; and
- (b) the appeal body shall forward to the Tribunal all information and material in its possession that relates to any appeal to which the order applies.

(5) Subsection 115 (20) of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

(6) Clause 115 (21) (b) of the Act is repealed and the following substituted:

- (b) the Local Planning Appeal Tribunal shall forward to the appeal body all information and material in its possession that relates to any appeal to which the order applies.

11 Subsection 115 (21.2) of the Act is amended,

- (a) by striking out “the Ontario Municipal Board and the appeal body shall forward to the Board” in paragraph 1 and substituting “the Local Planning Appeal Tribunal and the appeal body shall forward to the Tribunal”; and
- (b) by striking out “Ontario Municipal Board” at the end of paragraph 3 and substituting “Local Planning Appeal Tribunal”.

12 (1) Subsection 128 (4) of the Act is amended by striking out “to the Ontario Municipal Board” at the end and substituting “to the Local Planning Appeal Tribunal”.

(2) Subsection 128 (5) of the Act is amended by striking out “appeal to the Ontario Municipal Board” at the end and substituting “appeal to the Local Planning Appeal Tribunal”.

(3) Subsection 128 (6) of the Act is amended by striking out “that the Board requires” substituting “that the Tribunal requires”.

(4) Subsection 128 (7) of the Act is amended by striking out “The Board shall” at the beginning and substituting “The Tribunal shall”.

(5) Subsection 128 (8) of the Act is amended by,

- (a) striking out “the Board issues” in clause (a) (iii) and substituting “the Tribunal issues”; and
- (b) striking out “by the Board” at the end of clause (b) and substituting “by the Tribunal”.

13 (1) Subsection 129 (4) of the Act is amended by striking out “may apply to the Ontario Municipal Board” and substituting “may apply to the Local Planning Appeal Tribunal”.

(2) Subsection 129 (5) of the Act is amended by striking out “The Board shall” at the beginning and substituting “The Tribunal shall”.

(3) Subsection 129 (6) of the Act is amended by striking out “An order of the Board” at the beginning and substituting “An order of the Tribunal”.

(4) Subsection 129 (8) of the Act is amended by striking out “Once an order of the Board” at the beginning and substituting “Once an order of the Tribunal”.

14 Subsection 250 (2) of the Act is amended by striking out “Subject to section 62 of the *Ontario Municipal Board Act*” at the beginning and substituting “Subject to section 22 of the *Local Planning Appeal Tribunal Act, 2017*”.

15 Section 265 of the Act is repealed.

16 Subsection 285 (8) of the Act is repealed and the following substituted:

Application to L.P.A.T

(8) If the Minister has directed that an agreement be entered into under subsection (7) and the City and the other municipality fail to reach agreement within 60 days after the Minister’s direction, the City, the other municipality or the Minister may apply to the Local Planning Appeal Tribunal and the Tribunal shall settle the terms of the agreement.

17 (1) Subsection 341 (1) of the Act is amended by striking out “the Ontario Municipal Board may” and substituting “the Local Planning Appeal Tribunal may”.

(2) Subsection 341 (2) of the Act is amended by striking out “order of the Ontario Municipal Board” and substituting “order of the Tribunal”.

18 Clause 397 (2) (b) of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

19 Subsection 453.1 (15) of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

CONSERVATION AUTHORITIES ACT

20 Subsection 24 (4) of the *Conservation Authorities Act* is amended by striking out “secretary of the Ontario Municipal Board” and substituting “Local Planning Appeal Tribunal”.

21 (1) Subsection 25 (2) of the Act is amended,

- (a) by striking out “secretary of the Ontario Municipal Board” and substituting “Local Planning Appeal Tribunal”; and
- (b) by striking out “Ontario Municipal Board” at the end and substituting “Local Planning Appeal Tribunal”.

(2) Subsections 25 (3) and (4) of the Act are amended by striking out “Ontario Municipal Board” wherever it appears and substituting in each case “Local Planning Appeal Tribunal”.

22 Section 26 of the Act, as set out in section 23 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017*, is amended by striking out “Ontario Municipal Board” wherever it appears and substituting in each case “Local Planning Appeal Tribunal”.

23 Clause 40 (1) (e) of the Act, as set out in subsection 33 (1) of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017*, is amended by striking out “Ontario Municipal Board” and substituting “Local Planning Appeal Tribunal”.

CONSOLIDATED HEARINGS ACT

24 The definition of “establishing authority” in section 1 of the *Consolidated Hearings Act* is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

25 Subsections 4 (1), (2), (4) and (8) of the Act are amended by striking out “the Ontario Municipal Board” wherever it appears and substituting in each case “the Local Planning Appeal Tribunal”.

26 The Schedule to the Act is amended by striking out “Ontario Municipal Board Act” and substituting “Local Planning Appeal Tribunal Act, 2017”.

DRAINAGE ACT

27 Subsection 75 (3) of the *Drainage Act* is amended by striking out “sections 65 and 66 of the *Ontario Municipal Board Act* do not apply” at the end and substituting “section 25 of the *Local Planning Appeal Tribunal Act, 2017* does not apply”.

EXPROPRIATIONS ACT

28 (1) The definition of “Board” in subsection 1 (1) of the *Expropriations Act* is repealed.

(2) Subsection 1 (1) of the Act is amended by adding the following definition:

“Tribunal” means the Local Planning Appeal Tribunal. (“Tribunal”)

29 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”:

1. Subsection 9 (4).
2. Section 11.
3. Section 24.
4. Clause 26 (b).
5. Subsection 27 (6).
6. Subsections 28 (1) and (2).
7. Section 30.
8. Subsection 31 (1) and clauses 31 (2) (a) and (b).
9. Subsections 34 (1) and (2).

30 Subsection 10 (3) of the Act is repealed and the following substituted:

Entry on land for appraisal

(3) An expropriating authority may, after it has served notice of expropriation on the owner in possession of the lands expropriated, and with the consent of the said owner, enter on the expropriated lands for the purposes of viewing for appraisal, but, where the consent of the owner is not given, the expropriating authority may apply to the Tribunal which may, by order, authorize the entry upon such terms and conditions as may be specified in the order.

31 Section 15 of the Act is repealed and the following substituted:

Increase by Tribunal

15 Upon application therefor, the Tribunal shall, by order, after fixing the market value of lands used for residential purposes of the owner under subsection 14 (1), award such additional amount of compensation as, in the opinion of the Tribunal, is necessary to enable the owner to relocate his or her residence in accommodation that is at least equivalent to the accommodation expropriated.

32 Subsection 19 (2) of the Act is repealed and the following substituted:

Good will

(2) The Tribunal may, in determining compensation on the application of the expropriating authority or an owner, include an amount not exceeding the value of the good will of a business where the land is valued on the basis of its existing use and, in the opinion of the Tribunal, it is not feasible for the owner to relocate.

33 Section 29 of the Act is repealed and the following substituted:**Local Planning Appeal Tribunal****Duties of Tribunal**

29 (1) The Tribunal shall determine any compensation in respect of which a notice of arbitration has been served upon it under section 26 or 27, and, in the absence of agreement, determine any other matter required by this or any other Act to be determined by the Tribunal.

Record

(2) All oral evidence submitted before the Tribunal shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by the Tribunal, form the record.

Reasons

(3) The Tribunal shall prepare and furnish the parties to an application with written reasons for its decision.

Reports

(4) The Tribunal may prepare and periodically publish a summary of such of its decisions and the reasons therefor as the Tribunal considers to be of general public significance.

34 Subsection 31 (4) of the Act is repealed and the following substituted:**Procedure**

(4) Section 37 of the *Local Planning Appeal Tribunal Act, 2017* does not apply to a decision or order of the Tribunal made under this Act.

35 Section 32 of the Act is repealed and the following substituted:**Costs**

32 (1) Where the amount to which an owner is entitled upon an expropriation or claim for injurious affection is determined by the Tribunal and the amount awarded by the Tribunal is 85 per cent, or more, of the amount offered by the statutory authority, the Tribunal shall make an order directing the statutory authority to pay the reasonable legal, appraisal and other costs actually incurred by the owner for the purposes of determining the compensation payable, and may fix the costs in a lump sum or may order that the determination of the amount of such costs be referred to an assessment officer who shall assess and allow the costs in accordance with this subsection and the tariffs and rules prescribed under clause 44 (d).

Same

(2) Where the amount to which an owner is entitled upon an expropriation or claim for injurious affection is determined by the Tribunal and the amount awarded by the Tribunal is less than 85 per cent of the amount offered by the statutory authority, the Tribunal may make such order, if any, for the payment of costs as it considers appropriate, and may fix the costs in a lump sum or may order that the determination of the amount of such costs be referred to an assessment officer who shall assess and allow the costs in accordance with the order and the tariffs and rules prescribed under clause 44 (d) in like manner to the assessment of costs awarded on a party and party basis.

36 Subsections 33 (2) and (4) of the Act are repealed and the following substituted:**Variation of interest**

(2) Subject to subsection (3), where the Tribunal is of the opinion that any delay in determining the compensation is attributable in whole or in part to the owner, it may refuse to allow the owner interest for the whole or any part of the time for which the owner might otherwise be entitled to interest, or may allow interest at such rate less than 6 per cent a year as appears reasonable.

Same

(4) Where the Tribunal is of the opinion that any delay in determining compensation is attributable in whole or in part to the expropriating authority, the Tribunal may order the expropriating authority to pay to the owner interest under subsection (1) at a rate exceeding 6 per cent a year but not exceeding 12 per cent a year.

HOUSING DEVELOPMENT ACT

37 Subsection 7 (5) of the *Housing Development Act* is amended by striking out “to the Ontario Municipal Board” and substituting “to the Local Planning Appeal Tribunal”.

38 Subsection 13 (4) of the Act is repealed and the following substituted:

Approval not required

(4) Section 25 of the *Local Planning Appeal Tribunal Act, 2017* does not apply to a corporation as referred to in subsection (1).

HOUSING SERVICES ACT, 2011

39 (1) Subsection 16 (4) of the *Housing Services Act, 2011* is repealed and the following substituted:

Application for approval

(4) A dssab service manager that proposes to give a direction to a municipality shall apply to the Local Planning Appeal Tribunal for approval of the proposed direction under section 25 of the *Local Planning Appeal Tribunal Act, 2017* and the dssab service manager is deemed, for the purposes of that section, to make the application on behalf of the municipality.

(2) Subsection 16 (5) of the Act is amended by striking out “If the Ontario Municipal Board approves” at the beginning and substituting “If the Local Planning Appeal Tribunal approves”.

MUNICIPAL ACT, 2001

40 Subsection 6 (2) of the *Municipal Act, 2001* is amended by striking out “with the approval of the Ontario Municipal Board” and substituting “with the approval of the Local Planning Appeal Tribunal”.

41 Clause 179 (b) of the Act is amended by striking out “shall be considered by the Ontario Municipal Board” and substituting “shall be considered by the Local Planning Appeal Tribunal”.

42 (1) Subsection 180 (1) of the Act is amended by striking out “may apply to the Ontario Municipal Board” and substituting “may apply to the Local Planning Appeal Tribunal”.

(2) Subsection 180 (2) of the Act is amended by striking out “The Board may” at the beginning and substituting “The Tribunal may”.

(3) Subsection 180 (3) of the Act is amended by striking out “specified by the Board” at the end and substituting “specified by the Tribunal”.

43 (1) Subsection 181 (1) of the Act is amended by striking out “The Ontario Municipal Board may” at the beginning and substituting “The Local Planning Appeal Tribunal may”.

(2) Subsection 181 (2) of the Act is amended by striking out “The Board may” at the beginning and substituting “The Tribunal may”.

44 (1) Subsection 182 (1) of the Act is amended by striking out “may apply to the Ontario Municipal Board” and substituting “may apply to the Local Planning Appeal Tribunal”.

(2) Subsection 182 (2) of the Act is amended by striking out “the Ontario Municipal Board may” in the portion before clause (a) and substituting “the Tribunal may”.

(3) Subsection 182 (3) of the Act is amended by striking out “The Board may” at the beginning and substituting “The Tribunal may”.

45 (1) Subsection 183 (1) of the Act is amended by striking out “The Ontario Municipal Board” at the beginning and substituting “The Local Planning Appeal Tribunal”.

(2) Subsection 183 (2) of the Act is amended by striking out “the Board has the same powers” and substituting “the Tribunal has the same powers”.

(3) Subsection 183 (3) of the Act is amended by striking out “If the Board” at the beginning and substituting “If the Tribunal”.

(4) Subsection 183 (5) of the Act is repealed and the following substituted:

Deferred proceedings

(5) The Minister may notify the Tribunal in writing that in his or her opinion an application to the Tribunal under section 180, 181 or 182 should be deferred and upon so doing all proceedings in the application are stayed until the Minister notifies the Tribunal in writing that they may be continued.

46 Section 184 of the Act is amended by striking out “to the Ontario Municipal Board” and substituting “to the Local Planning Appeal Tribunal”.

47 (1) Subsection 186 (1) of the Act is amended by striking out “or the Ontario Municipal Board” in the portion before clause (a) and substituting “or the Local Planning Appeal Tribunal”.

(2) Paragraph 6 of subsection 186 (2) of the Act is amended by striking out “or the Ontario Municipal Board” and substituting “or the Local Planning Appeal Tribunal”.

48 Subsection 205 (4) of the Act is amended by striking out “Section 65 of the *Ontario Municipal Board Act*” at the beginning and substituting “Section 25 of the *Local Planning Appeal Tribunal Act, 2017*”.

49 (1) Subsection 222 (4) of the Act is amended by striking out “to the Ontario Municipal Board” and substituting “to the Local Planning Appeal Tribunal”.

(2) Subsection 222 (5) of the Act is amended by striking out “appeal to the Ontario Municipal Board” at the end and substituting “appeal to the Tribunal”.

(3) Subsection 222 (6) of the Act is amended by striking out “that the Board requires” and substituting “that the Tribunal requires”.

(4) Subsection 222 (7) of the Act is amended by striking out “The Board shall” at the beginning and substituting “The Tribunal shall”.

(5) Subsection 222 (8) of the Act is amended by,

(a) striking out “the Board issues” in clause (a) (iii) and substituting “the Tribunal issues”; and

(b) striking out “by the Board” at the end of clause (b) and substituting “by the Tribunal”.

50 (1) Subsection 223 (4) of the Act is amended by striking out “may apply to the Ontario Municipal Board” and substituting “may apply to the Local Planning Appeal Tribunal”.

(2) Subsection 223 (5) of the Act is amended by striking out “The Board shall” at the beginning and substituting “The Tribunal shall”.

(3) Subsection 223 (6) of the Act is amended by striking out “An order of the Board” at the beginning and substituting “An order of the Tribunal”.

(4) Subsection 223 (8) of the Act is amended by striking out “Once an order of the Board” at the beginning and substituting “Once an order of the Tribunal”.

51 Subsection 323 (8) of the Act is repealed and the following substituted:

Application to L.P.A.T.

(8) If the Minister has directed that an agreement be entered into under subsection (7) and the municipalities fail to reach agreement within 60 days after the Minister’s direction, either of the municipalities or the Minister may apply to the Local Planning Appeal Tribunal and the Tribunal shall settle the terms of the agreement.

52 (1) Subsection 370.1 (1) of the Act is amended by striking out “the Ontario Municipal Board may” and substituting “the Local Planning Appeal Tribunal may”.

(2) Subsection 370.1 (2) of the Act is amended by striking out “order of the Ontario Municipal Board” and substituting “order of the Tribunal”.

53 Section 399 of the Act is repealed.

54 Clause 401 (4) (c) of the Act is amended by striking out “the approval of the Ontario Municipal Board” and substituting “the approval of the Local Planning Appeal Tribunal”.

55 (1) Subsection 402 (1) of the Act is repealed and the following substituted:

Notice

(1) Upon receipt of an application of a municipality to incur a debt, the Local Planning Appeal Tribunal may direct the municipality to give notice of the application to such persons and in such manner as the Tribunal determines.

(2) Subsection 402 (2) of the Act is amended by striking out “by the Board” at the end and substituting “by the Tribunal”.

(3) Subsection 402 (3) of the Act is amended by striking out “to the secretary of the Board” at the end and substituting “to the Tribunal”.

56 Subsection 407 (2) of the Act is amended by striking out “Except with the approval of the Ontario Municipal Board” at the beginning and substituting “Except with the approval of the Local Planning Appeal Tribunal”.

57 Subsection 415 (2) of the Act is amended by striking out “Subject to section 62 of the *Ontario Municipal Board Act*” at the beginning and substituting “Subject to section 22 of the *Local Planning Appeal Tribunal, 2017*”.

58 Subsection 469 (1) of the Act is amended by,

- (a) striking out “or the Ontario Municipal Board” in clause (a) and substituting “or the Local Planning Appeal Tribunal”; and
- (b) striking out “to the Ontario Municipal Board” in clause (b) and substituting “to the Local Planning Appeal Tribunal”.

59 (1) Subsection 474.14 (1) of the Act is amended by striking out “and any land added by the Ontario Municipal Board” and substituting “and any land added by the Local Planning Appeal Tribunal”.

(2) Subsection 474.14 (2) of the Act is amended by striking out “the Ontario Municipal Board may” and substituting “the Local Planning Appeal Tribunal may”.

(3) Subsection 474.14 (3) of the Act is amended by striking out “Section 94 of the *Ontario Municipal Board Act*” at the beginning and substituting “Section 36 of the *Local Planning Appeal Tribunal Act, 2017*”.

MUNICIPAL ARBITRATIONS ACT

60 Section 15 of the *Municipal Arbitrations Act* is repealed and the following substituted:

L.P.A.T. as sole arbitrator

15 (1) Despite this Act, a municipality may designate the Local Planning Appeal Tribunal as sole arbitrator for the municipality with all the powers and duties of an official arbitrator.

Proceedings before the Tribunal

(2) Subject to subsection (3), the *Local Planning Appeal Tribunal Act, 2017* applies to proceedings before the Tribunal under this Act.

Awards

(3) The appeal provisions of this Act apply to awards made by the Tribunal under this Act.

ONTARIO HERITAGE ACT

61 (1) The definition of “Board” in section 1 of the *Ontario Heritage Act* is repealed.

(2) Section 1 of the Act is amended by adding the following definition:

“Tribunal” means the Local Planning Appeal Tribunal; (“Tribunal”)

62 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”:

1. Subsections 34.2 (1) and (2).
2. Clause 34.3 (1) (b).
3. Clause 34.5 (2) (b).
4. Subsections 41 (9) and (11).
5. Subsections 42 (6), (9), (13) and (14).
6. Section 68.2.

63 Section 25.1 of the Act is repealed and the following substituted:

L.P.A.T. hearings

25.1 (1) Despite section 3 of the *Local Planning Appeal Tribunal Act, 2017*, the Tribunal may appoint a member of the Review Board to sit on a panel of the Tribunal conducting an appeal under this Act for the duration of the appeal.

Same

(2) If a member of the Review Board is appointed to sit on a Tribunal panel under subsection (1),

- (a) the member shall have all of the powers of a member of the Tribunal appointed under section 3 of the *Local Planning Appeal Tribunal Act, 2017* and shall be entitled to participate fully in the appeal; and
- (b) for the purposes of any further proceeding or appeal under the *Local Planning Appeal Tribunal Act, 2017*, any decision or order made by a panel of the Tribunal that includes a Review Board member appointed under subsection (1) shall be deemed to be as valid as a decision or order made by a panel of the Tribunal constituted in accordance with the requirements of section 3 of the *Local Planning Appeal Tribunal Act, 2017*.

Conflict

(3) A member of the Review Board is not eligible to be appointed to sit on a Tribunal panel under subsection (1) if the member has participated in any hearing by the Review Board relating to the property that is the subject of the appeal being heard by the Tribunal panel.

64 Section 34.1 of the Act is repealed and the following substituted:**Appeal to Tribunal**

34.1 (1) If the council of a municipality consents to an application subject to terms and conditions under subclause 34 (2) (a) (i.1) or refuses an application under subclause 34 (2) (a) (ii), the owner of the property that was the subject of the application may appeal the council's decision to the Tribunal within 30 days of the day the owner received notice of the council's decision.

Notice of appeal

(2) An owner of property who wishes to appeal the decision of the council of a municipality shall, within 30 days of the day the owner received notice of the council's decision, give notice of appeal to the Tribunal and to the clerk of the municipality.

Content of notice

(3) A notice of appeal shall set out the reasons for the objection to the decision of the council of the municipality and be accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

Hearing

(4) Upon receiving notice of an appeal, the Tribunal shall set a time and place for hearing the appeal and give notice of the hearing to the owner of the property and to such other persons or bodies as the Tribunal may determine.

Notice of hearing

(5) The Tribunal shall give notice of a hearing in such manner as the Tribunal determines necessary.

Powers of Tribunal

(6) After holding a hearing, the Tribunal may order,

- (a) that the appeal be dismissed; or
- (b) that the municipality consent to the demolition or removal of a building or structure without terms and conditions or with such terms and conditions as the Tribunal may specify in the order.

Decision final

(7) The decision of the Tribunal is final.

65 Subsection 40.1 (4) of the Act is repealed and the following substituted:**Appeal to Tribunal**

(4) Any person who objects to a by-law passed under subsection (1) may appeal to the Tribunal by giving the clerk of the municipality, within 30 days after the date of publication under clause (3) (b), a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

66 (1) Subsection 41 (4) of the Act is repealed and the following substituted:**Appeal to Tribunal**

(4) Any person who objects to the by-law may appeal to the Tribunal by giving the clerk of the municipality, within 30 days after the date of publication under clause (3) (b), a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

(2) Subsections 41 (6) to (8) of the Act are repealed and the following substituted:**If notice of appeal**

(6) If a notice of appeal is given to the clerk within the time period specified in subsection (4), the Tribunal shall hold a hearing open to the public and, before holding the hearing, shall give notice of the hearing to such persons or bodies and in such manner as the Tribunal may determine.

Powers of Tribunal

(7) After holding the hearing, the Tribunal shall,

- (a) dismiss the appeal; or
- (b) allow the appeal in whole or in part and,

- (i) repeal the by-law,
- (ii) amend the by-law in such manner as the Tribunal may determine,
- (iii) direct the council of the municipality to repeal the by-law, or
- (iv) direct the council of the municipality to amend the by-law in accordance with the Tribunal's order.

Dismissal without hearing of appeal

(8) Despite the *Statutory Powers Procedure Act* and subsections (6) and (7), the Tribunal may, on its own motion or on the motion of any party, dismiss all or part of the appeal without holding a hearing on the appeal if,

- (a) the Tribunal is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent ground upon which the Tribunal could allow all or part of the appeal, or
 - (ii) the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay;
- (b) the appellant has not provided written reasons in support of the objection to the by-law;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*;
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal; or
- (e) the appellant has not participated in the public process for the adoption of the relevant heritage conservation district plan under section 41.1 by either making an oral submission at a public meeting or by submitting written submissions to the council of the municipality and the Tribunal believes there is no reasonable explanation for failing to do so.

(3) Clause 41 (10) (b) of the Act is repealed and the following substituted:

- (b) if the by-law is amended by the Tribunal under subclause (7) (b) (ii), the by-law, as amended by the Tribunal, comes into force on the day it is so amended; or

(4) Subsection 41 (12) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Same

(12) If, on the day subsection 2 (25) of Schedule F to the *Government Efficiency Act, 2002* comes into force, a by-law designating a heritage conservation district has been passed by a municipality and the Tribunal has completed or has begun to hold a hearing under subsection (6) of this section, as it read before that day, but has not yet issued its formal order,

67 Subsections 42 (7) and (8) of the Act are repealed and the following substituted:

Notice of appeal

(7) To appeal to the Tribunal, the owner must give a notice of appeal to the Tribunal within 30 days after the owner receives notice that the council is refusing the application, or receives the permit with the terms and conditions attached, as the case may be.

Tribunal's powers

- (8) The Tribunal shall hear the appeal and shall,
 - (a) dismiss the appeal; or
 - (b) direct that the permit be issued without terms and conditions or with such terms and conditions as the Tribunal by its order may direct.

68 Subsection 68.3 (1) of the Act is amended by striking out "made by a municipality, the Minister, Review Board or Board under this Act" at the end and substituting "made by a municipality, the Minister, Review Board or Tribunal under this Act".

ONTARIO PLANNING AND DEVELOPMENT ACT, 1994

69 Clause 7 (4) (b) of the *Ontario Planning and Development Act, 1994* is repealed and the following substituted:

- (b) refer the matter to the Local Planning Appeal Tribunal to conduct a hearing with respect to the proposed amendment and make a written recommendation on it; or

70 Clause 8 (1) (b) of the Act is repealed and the following substituted:

- (b) refer the matter to the Local Planning Appeal Tribunal to conduct a hearing with respect to the proposed amendment and make a written recommendation on it;

71 Section 10 of the Act is repealed and the following substituted:

Hearing by L.P.A.T.

10 (1) If a matter is referred to the Local Planning Appeal Tribunal, it shall conduct a hearing.

Notice

(2) Notice of the hearing shall be given to such persons or bodies and in such manner as the Tribunal may determine and the Tribunal shall make a written recommendation to the Minister stating whether the Minister should approve the proposed amendment, in whole or in part, make modifications and approve the amendment as modified or refuse the proposed amendment, in whole or in part, and giving reasons for the recommendation.

72 Section 11 of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

ONTARIO WATER RESOURCES ACT

73 The definition of “Board” in subsection 1 (1) of the *Ontario Water Resources Act* is repealed.

74 (1) Subsection 54 (5) of the Act is repealed and the following substituted:

Application to L.P.A.T.

(5) If a registration under Part II.2 of the *Environmental Protection Act* is in effect or an environmental compliance approval has been issued in respect of a sewage works established or extended or to be established or extended by a municipality in or into another municipality or territory without municipal organization, the municipality undertaking the establishment or extension, before proceeding therewith, may apply to the Local Planning Appeal Tribunal for an order,

- (a) stopping up and closing any highway, road or road allowance, temporarily or permanently, for the purpose of allowing the establishment or extension to be carried on and vesting it in the municipality undertaking the establishment or extension, and providing for the opening of another highway, road or road allowance in lieu of the highway, road or road allowance so stopped up and closed, and subsection 88 (2) of the *Registry Act* does not apply;
- (b) ordering that any building restrictions, covenants running with the land or any limitations placed upon the estate or interest of any person in any lands upon or through which it is proposed that the establishment or extension may be constructed shall be terminated and shall be no longer operative or binding upon or against any person, and directing that any such order be registered under the *Registry Act*; and
- (c) fixing the compensation for lands taken or injuriously affected in the construction, maintenance or operation of the establishment or extension,

and notice of the application shall be given to the clerk of the municipality in or into which the sewage works are being established or extended and to the clerks of such other municipalities and to such other persons and in such manner as the Local Planning Appeal Tribunal may direct.

(2) Subsection 54 (12) of the Act is repealed and the following substituted:

Powers of L.P.A.T.

(12) The Local Planning Appeal Tribunal, as a condition of making an order under subsection (11), may impose such restrictions, limitations and conditions respecting the use of land for the extension of the sewage works, not inconsistent with the regulations made for the purposes of Part II.2 of the *Environmental Protection Act* or the terms and conditions in the environmental compliance approval, as to the Local Planning Appeal Tribunal may appear necessary or expedient.

75 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Local Planning Appeal Tribunal”:

1. Subsections 54 (8) and (11).
2. Subsection 55 (4).
3. Subsection 62 (2).
4. Subsection 63 (5).
5. Subsection 74 (13).

76 Subsection 55 (5) of the Act is repealed and the following substituted:

Powers of L.P.A.T.

(5) The Local Planning Appeal Tribunal, as a condition of making an order under subsection (4), may impose such restrictions, limitations and conditions respecting the use of land for the establishment or extension of the sewage treatment

works not inconsistent with the regulations made for the purposes of Part II.2 of the *Environmental Protection Act* or the terms and conditions in the environmental compliance approval, as to the Local Planning Appeal Tribunal may appear necessary or expedient.

77 Section 57 of the Act is repealed and the following substituted:

Powers of L.P.A.T., review of municipal sewage works

57 The Local Planning Appeal Tribunal may inquire into, hear and determine any application by or on behalf of any person complaining that any municipality constructing, maintaining or operating sewage works or having the control thereof.

(a) has failed to do any act, matter or thing required to be done by any Act, by any regulation made under any Act, by any order or direction, or by any agreement entered into with the municipality; or

(b) has done or is doing any such act, matter or thing improperly,

and that the same is causing deterioration, loss, injury or damage to property, and the Local Planning Appeal Tribunal may make any order, award or finding in respect of any such complaint as it considers just.

78 Subsection 74 (11) of the Act is repealed and the following substituted:

Determination of compensation

(11) Subject to this section, a claim for compensation, if not agreed upon by the Agency and the person making the claim, shall be determined by the Local Planning Appeal Tribunal and not otherwise, and the *Local Planning Appeal Tribunal Act, 2017*, except section 36, applies as far as is practicable to every such claim.

PLANNING ACT

79 (1) The definition of “Municipal Board” in subsection 1 (1) of the *Planning Act* is repealed.

(2) Subsection 1 (1) of the Act is amended by adding the following definition:

“Tribunal” means the Local Planning Appeal Tribunal. (“Tribunal”)

80 The following provisions of the Act are amended by striking out “the Municipal Board” wherever it appears and substituting in each case “the Tribunal”:

1. Section 2.
2. Subsection 3 (5).
3. Subsection 8.1 (22).
4. Subsections 12 (6) and (7).
5. Subsections 14.3 (3) and (4).
6. Subsections 14.6 (4) and (5).
7. Subsections 17 (24), (36), (40.3) and (43) and paragraph 2 of subsection 17 (44.2).
8. Subsections 22 (6.4), (6.5), (7) and (7.4).
9. Subsection 23 (5).
10. Subsection 33 (18).
11. Subsections 34 (10.7) and (10.8), paragraph 2 of subsection 34 (24.2) and subsections 34 (31) and (32).
12. Subsections 41 (4) and (4.3).
13. Clauses 45 (1.0.4) (c) and (e) and subsections 45 (17.1), (18) and (18.1).
14. Subsections 51 (19.4), (34), (36), (39), (43), (48), paragraph 2 of subsection 51 (52.2) and subsections 51 (54) and (56.2).
15. Subsections 53 (4.2), (14), (16), (19), (29), (32), (33), (36), (37) and (38).
16. Section 63.
17. Section 65.
18. Subsection 73 (2).
19. Subsection 75 (3).

81 The following provisions of the Act are amended by striking out “the fee prescribed under the *Ontario Municipal Board Act*” wherever it appears and substituting in each case “the fee charged under the *Local Planning Appeal Tribunal Act, 2017*”:

1. **Clauses 17 (25) (c), (37) (c) and (41) (b).**
2. **Clause 22 (8) (b).**
3. **Subsections 51 (34), (39), (43) and (48).**
4. **Subsections 53 (14), (19) and (27).**

82 The following provisions of the Act are amended by striking out “the secretary of the Municipal Board” wherever it appears and substituting in each case “the Tribunal”:

1. **Subsections 17 (30) and (39).**
2. **Subsection 34 (11.1).**
3. **Subsections 51 (51) and (55).**

83 Subsection 5 (1) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

84 (1) Subsections 8.1 (12), (14), (15), (17), (20) and (23) of the Act are repealed and the following substituted:

Exception, related appeals

(12) Despite subsection (7), an appeal under a provision listed in subsection (6) shall be made to the Tribunal, not to the local appeal body, if a related appeal,

- (a) has previously been made to the Tribunal and has not yet been finally disposed of; or
- (b) is made to the Tribunal together with the appeal under a provision listed in subsection (6).

Dispute

(14) A person may make a motion for directions to have the Tribunal determine a dispute about whether subsection (12) or (16) applies to an appeal.

Final determination

(15) The Tribunal’s determination under subsection (14) is not subject to appeal or review.

Same

(17) When the Tribunal assumes jurisdiction as described in subsection (16), the local appeal body,

- (a) shall immediately forward to the Tribunal all information and material in its possession that relates to the appeal; and
- (b) shall not take any further action with respect to the appeal.

Effect of withdrawal

(20) If an order is made under subsection (18),

- (a) the Tribunal shall hear all appeals to which the order applies; and
- (b) the local appeal body to which the order relates shall forward to the Tribunal all information and material in its possession that relates to any appeal to which the order applies.

Effect of revocation

(23) If an order is made under subsection (21),

- (a) the local appeal body shall hear all appeals to which the order applies; and
- (b) the Tribunal shall forward to the local appeal body all information and material in its possession that relates to any appeal to which the order applies.

(2) Subsection 8.1 (23.2) of the Act is amended,

- (a) by striking out “the Municipal Board and the local appeal body shall forward to the Board” in paragraph 1 and substituting “the Tribunal and the local appeal body shall forward to the Tribunal”; and
- (b) by striking out “Municipal Board” at the end of paragraph 3 and substituting “Tribunal”.

85 Subsection 12 (5) of the Act is repealed and the following substituted:

Where apportionment not satisfactory

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection (4), notify the planning board and the Tribunal that it desires the apportionment to be made by the Tribunal.

86 Subsection 14.3 (2) of the Act is repealed and the following substituted:**Determination by Tribunal**

(2) If the council of any municipality is not satisfied with the apportionment, it may, within 15 days after receiving the notice, notify the municipal planning authority and the Tribunal that it desires the apportionment to be made by the Tribunal.

87 (1) Clauses 17 (29) (b) and (d) of the Act are repealed and the following substituted:

(b) the record, the notice of appeal and the fee charged under the *Local Planning Appeal Tribunal Act, 2017* are forwarded to the Tribunal within 15 days after the last day for filing a notice of appeal;

(d) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal.

(2) Subsection 17 (29.1) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(3) Subsection 17 (42) of the Act is repealed and the following substituted:**Documents to L.P.A.T.**

(42) If an approval authority receives a notice of appeal under subsection (36) or (40), it shall ensure that,

(a) a record is compiled which includes the prescribed information and material;

(b) the record, notice of appeal and the fee charged under the *Local Planning Appeal Tribunal Act, 2017* are forwarded to the Tribunal within 15 days after the last day for filing a notice of appeal under subsection (36) or within 15 days after the notice of appeal under subsection (40) was filed, as the case may be; and

(c) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal.

(4) Subsection 17 (42.1) of the Act is amended by striking out “to the Municipal Board” at the end and substituting “to the Tribunal”.

(5) Subsections 17 (44), (45.1), (46.1), (47) and (48) of the Act are repealed and the following substituted:**Hearing**

(44) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or such public bodies and in such manner as the Tribunal may determine.

Same

(45.1) Despite the *Statutory Powers Procedure Act* and subsection (44), the Tribunal may, on its own initiative or on the motion of the municipality, the appropriate approval authority or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision.

Dismissal

(46.1) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (45) or (45.1), as it considers appropriate.

Dismissal

(47) If the Tribunal dismisses all appeals made under subsection (24) or (36) in respect of all or part of a decision without holding a hearing and if the time for filing notices of appeal has expired, the Tribunal shall notify the clerk of the municipality or the approval authority and,

(a) the decision or that part of the decision that was the subject of the appeal is final; and

(b) any plan or part of the plan that was adopted or approved and in respect of which all the appeals have been dismissed comes into effect as an official plan or part of an official plan on the day after the day the last outstanding appeal has been dismissed.

Same

(48) If the Tribunal dismisses an appeal under subsection (40) without holding a hearing and if there is no other appeal in respect of the same matter, the Tribunal shall notify the approval authority and the approval authority may then proceed to make a decision under subsection (34) in respect of all or part of the plan, as the case may be.

(6) Subsection 17 (54) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

88 (1) Subsection 22 (6.2) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Motion re dispute

(6.2) Within 30 days after a negative notice is given under subsection (6.1), the person or public body or the council or planning board may make a motion for directions to have the Tribunal determine,

(2) Subsections 22 (9) and (10) of the Act are repealed and the following substituted:

Record

(9) The clerk of a municipality or the secretary-treasurer of a planning board who receives a notice of appeal under subsection (7) shall ensure that,

- (a) a record is compiled which includes the prescribed information and material;
- (b) the notice of appeal, the record and the fee are forwarded to the Tribunal,
 - (i) in the case of an appeal brought in accordance with paragraph 1 or 2 of subsection (7.0.2), within 15 days after the notice is filed,
 - (ii) in the case of an appeal brought in accordance with paragraph 3 or 4 of subsection (7.0.2), within 15 days after the last day for filing a notice of appeal;
- (c) the notice of appeal and the record are forwarded to the appropriate approval authority, whether or not the plan is exempt from approval,
 - (i) in the case of an appeal brought in accordance with paragraph 1 or 2 of subsection (7.0.2), within 15 days after the notice is filed,
 - (ii) in the case of an appeal brought in accordance with paragraph 3 or 4 of subsection (7.0.2), within 15 days after the last day for filing a notice of appeal; and
- (d) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal.

Other information

(10) A person or public body that files a notice of appeal under subsection (7) shall provide to the Tribunal the prescribed information or material and such other information as the Tribunal may require.

(3) Subsection 22 (11.4) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

(4) Subsections 22 (12) and (13) of the Act are repealed and the following substituted:

Withdrawal of appeal

(12) If all appeals under subsection (7) brought in accordance with paragraph 1 or 2 of subsection (7.0.2) are dismissed by the Tribunal without holding a hearing or are withdrawn, the Tribunal shall notify the council or the planning board and the council or the planning board may proceed to give notice of the public meeting or adopt or refuse to adopt the requested amendment, as the case may be.

Same

(13) If all appeals under subsection (7) brought in accordance with paragraph 3 or 4 of subsection (7.0.2) are dismissed by the Tribunal without holding a hearing or are withdrawn, the Tribunal shall notify the council or the planning board and the decision of the council or the planning board is final on the day that the last outstanding appeal has been withdrawn or dismissed.

89 (1) Subsections 23 (2) and (4) of the Act are repealed and the following substituted:

Hearing by L.P.A.T.

(2) Where the Minister proposes to make an amendment to an official plan under subsection (1), the Minister may, and on the request of any person or municipality shall, request the Tribunal to hold a hearing on the proposed amendment and the Tribunal shall thereupon hold a hearing as to whether the amendment should be made.

Notice

(4) Where the Minister has requested the Tribunal to hold a hearing as provided for in subsection (2), notice of the hearing shall be given in such manner and to such persons as the Tribunal may direct, and the Tribunal shall hear any submissions that any person may desire to bring to the attention of the Tribunal.

(2) Subsection 23 (6) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

90 Subsection 24 (4) of the Act is repealed and the following substituted:

Deemed conformity

(4) If a by-law is passed under section 34 by the council of a municipality or a planning board in a planning area in which an official plan is in effect and, within the time limited for appeal no appeal is taken or an appeal is taken and the appeal is withdrawn or dismissed or the by-law is amended by the Tribunal or as directed by the Tribunal, the by-law shall be conclusively deemed to be in conformity with the official plan, except, if the by-law is passed in the circumstances mentioned in subsection (2), the by-law shall be conclusively deemed to be in conformity with the official plan on and after the day the by-law was passed, if the amendment to the official plan comes into effect.

91 Subsection 28 (12) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

92 Subsections 33 (4), (5), (10) and (15) of the Act are repealed and the following substituted:

Appeal to L.P.A.T.

(4) Where the council refuses to issue the permit or neglects to make a decision thereon within thirty days after the receipt by the clerk of the municipality of the application, the applicant may appeal to the Tribunal and the Tribunal shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Tribunal shall be final.

Notice of appeal

(5) The person appealing to the Tribunal under subsection (4) shall, in such manner and to such persons as the Tribunal may direct, give notice of the appeal to the Tribunal.

Appeal to L.P.A.T.

(10) Where an applicant for a demolition permit under subsection (6) is not satisfied as to the conditions on which the demolition permit is proposed to be issued, the applicant may appeal to the Tribunal for a variation of the conditions and, where an appeal is brought, the Tribunal shall hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Tribunal considers appropriate, and the decision of the Tribunal shall be final.

Appeal to L.P.A.T.

(15) Any person who has made application to the council under subsection (11) may appeal from the decision of the council to the Tribunal within twenty days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Tribunal and the Tribunal shall hear the appeal and the Tribunal on the appeal has the same powers as the council has under subsection (14) and the decision of the Tribunal shall be final.

93 (1) Subsection 34 (10.5) of the Act is repealed and the following substituted:

Motion re dispute

(10.5) Within 30 days after a negative notice is given under subsection (10.4), the person or public body or the council may make a motion for directions to have the Tribunal determine,

- (a) whether the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (10.2) is reasonable.

(2) Subsection 34 (18) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

(3) Subsection 34 (23.1) of the Act is repealed and the following substituted:

Withdrawal of appeals

(23.1) If all appeals to the Tribunal under subsection (19) are withdrawn and the time for appealing has expired, the Tribunal shall notify the clerk of the municipality and the decision of the council is final and binding.

(4) Subsection 34 (23.2) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(5) Subsection 34 (23.3) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(6) Subsection 34 (24) of the Act is repealed and the following substituted:

Hearing and notice thereof

(24) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or bodies and in such manner as the Tribunal may determine.

(7) Subsection 34 (25.2) of the Act is repealed and the following substituted:

Dismissal

(25.2) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (25) or (25.1.1), as it considers appropriate.

(8) Subsection 34 (29.1) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

(9) Subsections 34 (33) and (34) of the Act are repealed and the following substituted:

Notice and hearing

(33) The Tribunal may,

- (a) dispense with giving notice of a motion under subsection (32) or require the giving of such notice of the motion as it considers appropriate; and
- (b) make an order under subsection (31) after holding a hearing or without holding a hearing on the motion, as it considers appropriate.

Notice

(34) Despite clause (33) (a), the Tribunal shall give notice of a motion under subsection (32) to any person or public body who filed with the Tribunal a written request to be notified if a motion is made.

94 Subsections 36 (3.1), (3.3) and (3.4) of the Act are repealed and the following substituted:

Matters of provincial interest

(3.1) Where an appeal is made to the Tribunal under subsection (3), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days before the day fixed by the Tribunal for the hearing of the appeal and the Minister shall identify,

- (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected.

No order to be made

(3.3) If the Tribunal has received notice from the Minister under subsection (3.1) and has made a decision on the by-law, the Tribunal shall not make an order under subsection (3) in respect of the part or parts of the by-law identified in the notice.

Action of L.G. in C.

(3.4) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Tribunal in respect of the part or parts of the by-law identified in the notice and in doing so may repeal the by-law in whole or in part or amend the by-law in such a manner as the Lieutenant Governor in Council may determine.

95 Subsection 38 (6.1) of the Act is repealed and the following substituted:

Where by-law appealed

(6.1) If the period of time during which an interim control by-law is in effect has expired and the council has passed a by-law under section 34 consequent on the completion of the review or study within the period of time specified in the interim control by-law, but there is an appeal of the by-law under subsection 34 (19), the interim control by-law continues in effect as if it had not expired until the date of the order of the Tribunal or until the date of a notice issued by the Tribunal under subsection 34 (23.1) unless the interim control by-law is repealed.

96 Subsection 41 (4.2) of the Act is repealed and the following substituted:**Dispute about scope of site plan control**

(4.2) The owner of land or the municipality may make a motion for directions to have the Tribunal determine a dispute about whether a matter referred to in paragraph 1 or 2 of subsection (4) is subject to site plan control.

97 (1) Subsections 42 (10) and (11) of the Act are repealed and the following substituted:**Disputes**

(10) In the event of a dispute between a municipality and an owner of land on the value of land determined under subsection (6.4), either party may apply to the Tribunal to have the value determined and the Tribunal shall, in accordance as nearly as may be with the *Expropriations Act*, determine the value of the land and, if a payment has been made under protest under subsection (12), the Tribunal may order that a refund be made to the owner.

Same

(11) In the event of a dispute between a municipality and an owner of land as to the amount of land or payment of money that may be required under subsection (9), either party may apply to the Tribunal and the Tribunal shall make a final determination of the matter.

(2) Subsection 42 (12) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(3) Subsection 42 (13) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

98 (1) Clause 45 (1.0.4) (d) of the Act is repealed and the following substituted:

(d) if the Tribunal allows an appeal in respect of the by-law and amends the by-law, on the day after the last day on which the Tribunal makes a decision disposing of the appeal; or

(2) Subsection 45 (10) of the Act is amended by striking out “to the Municipal Board” in the portion after clause (c) and substituting “to the Tribunal”.

(3) Subsections 45 (12) and (13) of the Act are repealed and the following substituted:**Appeal to L.P.A.T.**

(12) The applicant, the Minister or any other person or public body who has an interest in the matter may within 20 days of the making of the decision appeal to the Tribunal against the decision of the committee by filing with the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee charged by the Tribunal under the *Local Planning Appeal Tribunal Act, 2017* as payable on an appeal from a committee of adjustment to the Tribunal.

Record

(13) On receiving a notice of appeal filed under subsection (12), the secretary-treasurer of the committee shall promptly forward to the Tribunal, by registered mail,

- (a) the notice of appeal;
- (b) the amount of the fee mentioned in subsection (12);
- (c) all documents filed with the committee relating to the matter appealed from;
- (d) such other documents as may be required by the Tribunal; and
- (e) any other prescribed information and material.

(4) Subsection 45 (13.1) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(5) Subsections 45 (15), (16), (17), (17.2) and (18.1.1) of the Act are repealed and the following substituted:

Where appeals withdrawn

(15) Where all appeals to the Tribunal are withdrawn, the decision of the committee is final and binding and the Tribunal shall notify the secretary-treasurer of the committee who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality.

Hearing

(16) On an appeal to the Tribunal, the Tribunal shall, except as provided in subsections (15) and (17), hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons or public bodies and in such manner as the Tribunal may determine.

Dismissal without hearing

(17) Despite the *Statutory Powers Procedure Act* and subsection (16), the Tribunal may dismiss all or part of an appeal without holding a hearing, on its own initiative or on the motion of any party, if,

- (a) it is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could allow all or part of the appeal,
 - (ii) the appeal is not made in good faith or is frivolous or vexatious,
 - (iii) the appeal is made only for the purpose of delay, or
 - (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;
- (b) the appellant has not provided written reasons for the appeal;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

Dismissal

(17.2) The Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (17), as it considers appropriate.

Exception

(18.1.1) The Tribunal is not required to give notice under subsection (18.1) if, in its opinion, the amendment to the original application is minor.

(6) Subsections 45 (18.2), (18.3) and (18.4) of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”.

(7) Subsection 45 (19) of the Act is repealed and the following substituted:

Notice of decision

(19) When the Tribunal makes an order on an appeal, the Tribunal shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

(8) Subsection 45 (20) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

99 (1) Subsections 51 (19.2), (19.5) and (32) of the Act are repealed and the following substituted:

Motion re dispute

(19.2) Within 30 days after a negative notice is given under subsection (19.1), the applicant or the approval authority may make a motion for directions to have the Tribunal determine,

- (a) whether the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (18) is reasonable.

Final determination

(19.5) The Tribunal’s determination under subsection (19.2) is not subject to appeal or review.

Lapse of approval

(32) In giving approval to a draft plan of subdivision, the approval authority may provide that the approval lapses at the expiration of the time period specified by the approval authority, being not less than three years, and the approval shall lapse at the expiration of the time period, but if there is an appeal under subsection (39) the time period specified for the lapsing of approval does not begin until the date the Tribunal's decision is issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (51).

(2) **Clause 51 (35) (b) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".**

(3) **Subsection 51 (35.1) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".**

(4) **Clause 51 (50) (b) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".**

(5) **Subsection 51 (50.1) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".**

(6) **Subsections 51 (52), (52.5) and (52.6) of the Act are repealed and the following substituted:**

Hearing

(52) On an appeal, the Tribunal shall hold a hearing, notice of which shall be given to such persons or public bodies and in such manner as the Tribunal may determine.

Notice to approval authority

(52.5) The Tribunal shall notify the approval authority that it is being given an opportunity to,

- (a) reconsider its decision in light of the information and material; and
- (b) make a written recommendation to the Tribunal.

Approval authority's recommendation

(52.6) The Tribunal shall have regard to the approval authority's recommendation if it is received within the time period mentioned in subsection (52.4), and may but is not required to do so if it is received afterwards.

(7) **Subsection 51 (53) of the Act is amended by striking out the portion before clause (a) and clauses (a), (d) and (e) and substituting the following:**

Dismissal without hearing

(53) Despite the *Statutory Powers Procedure Act* and subsection (52), the Tribunal may dismiss an appeal without holding a hearing on its own initiative or on the motion of any party, if,

- (a) it is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give approval to the draft plan of subdivision or determine the question as to the condition appealed to it,
 - (ii) the appeal is not made in good faith or is frivolous or vexatious,
 - (iii) the appeal is made only for the purpose of delay, or
 - (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;
- (d) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (e) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

(8) **Subsections 51 (53.1), (54.1), (56) and (56.1) of the Act are repealed and the following substituted:**

Same

(53.1) Despite the *Statutory Powers Procedure Act* and subsection (52), the Tribunal may, on its own initiative or on the motion of the municipality, the appropriate approval authority or the Minister, dismiss all or part of an appeal without

holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision.

Dismissal

(54.1) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (53) or (53.1), as it considers appropriate.

Powers

(56) On an appeal under subsection (34) or (39), the Tribunal may make any decision that the approval authority could have made on the application and on an appeal under subsection (43) or (48) shall determine the question as to the conditions appealed to it.

Final approval

(56.1) If, on an appeal under subsection (34) or (39), the Tribunal has given approval to a draft plan of subdivision, the Tribunal may, by order, provide that the final approval of the plan of subdivision for the purposes of subsection (58) is to be given by the approval authority in which the land is situate.

100 (1) Subsection 53 (4.1) of the Act is repealed and the following substituted:

Motion re dispute

(4.1) The applicant, the council or the Minister may make a motion for directions to have the Tribunal determine,

- (a) whether the information and material required under subsections (2) and (3), if any, have in fact been provided; or
- (b) whether a requirement made under subsection (3) is reasonable.

(2) Clause 53 (15) (b) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".

(3) Subsection 53 (16.1) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".

(4) Clause 53 (28) (b) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".

(5) Subsection 53 (29.1) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".

(6) Subsections 53 (30), (31), (32.1), (34), (35), (35.1), (39) and (41) of the Act are repealed and the following substituted:

Hearing

(30) On an appeal, the Tribunal shall hold a hearing, of which notice shall be given to such persons or public bodies and in such manner as the Tribunal may determine.

Dismissal without hearing

(31) Despite the *Statutory Powers Procedure Act* and subsection (30), the Tribunal may dismiss an appeal without holding a hearing, on its own initiative or on the motion of any party, if,

- (a) it is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give the provisional consent or could determine the question as to the condition appealed to it,
 - (ii) the appeal is not made in good faith or is frivolous or vexatious,
 - (iii) the appeal is made only for the purpose of delay, or
 - (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;
- (b) the appellant did not make oral submissions at a public meeting or did not make written submissions to the council or the Minister before a provisional consent was given or refused and, in the opinion of the Tribunal, the appellant does not provide a reasonable explanation for having failed to make a submission;
- (c) the appellant has not provided written reasons for the appeal;

- (d) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (e) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

Dismissal

(32.1) The Tribunal may dismiss an appeal after holding a hearing or without holding a hearing on the motion under subsection (31), as it considers appropriate.

Powers

(34) On an appeal under subsection (14) or (19), the Tribunal may make any decision that the council or the Minister, as the case may be, could have made on the original application and on an appeal of the conditions under subsection (27), the Tribunal shall determine the question as to the condition or conditions appealed to it.

Amended application

(35) On an appeal, the Tribunal may make a decision on an application which has been amended from the original application if, at any time before issuing its order, written notice is given to the persons and public bodies prescribed under subsection (10) and to any person or public body conferred with under subsection (11) on the original application.

No written notice

(35.1) The Tribunal is not required to give written notice under subsection (35) if, in the opinion of the Tribunal, the amendment to the original application is minor.

Consent

(39) If the decision of the Tribunal under subsection (34) is that a provisional consent be given, the council or the Minister shall give the consent, but if conditions have been imposed, the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

Conditions not fulfilled

(41) If conditions have been imposed and the applicant has not, within a period of one year after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of one year from the date of the order of the Tribunal issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (29) or (33).

101 Subsections 69 (3) and (4) of the Act are repealed and the following substituted:

Payment under protest: appeal to L.P.A.T.

(3) Any person who is required to pay a fee under subsection (1) for the processing of an application in respect of a planning matter may pay the amount of the fee under protest and thereafter appeal to the Tribunal against the levying of the fee or the amount of the fee by giving written notice of appeal to the Tribunal within thirty days of payment of the fee.

Hearing

(4) The Tribunal shall hear an appeal made under subsection (3) and shall dismiss the appeal or direct that a refund payment be made to the appellant in such amount as the Tribunal determines.

102 Clause 70.2 (2) (e) of the Act is repealed and the following substituted:

- (e) set out procedures for appealing to the Tribunal in respect of a development permit or a condition in a permit, including prescribing persons or public bodies that may appeal to the Tribunal in that regard;

103 (1) Clause 74 (4) (a) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(2) Clause 74 (6) (a) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT

104 (1) The definition of “Board” in section 1 of the *Public Transportation and Highway Improvement Act* is repealed.

(2) Section 1 of the Act is amended by adding the following definition:

“Tribunal” means the Local Planning Appeal Tribunal. (“Tribunal”)

105 Subsection 14 (2) of the Act is repealed and the following substituted:

Determination of compensation

(2) Every such claim for compensation not agreed upon by the Minister and the claimant shall be determined by the Tribunal and not otherwise, and the *Local Planning Appeal Tribunal Act, 2017*, except section 37, applies so far as is practicable to every such claim that is referred to the Tribunal.

106 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”:

1. Subsections 14 (3) and (4).

2. Subsections 37 (2) and (6).

107 Subsection 16 (2) of the Act is repealed and the following substituted:

Where interest may be withheld

(2) Where the Tribunal is of the opinion that any delay in determining the compensation or damages is attributable in whole or in part to the person entitled to the compensation or damages or any part of it, the Tribunal may refuse to allow the person interest for the whole or any part of the time for which the person might otherwise be entitled to interest, or may allow interest at such rate less than 5 per cent per year as appears just.

108 Subsections 37 (3) and (4) of the Act are repealed and the following substituted:

Application for approval

(3) The Tribunal may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons, including municipalities and local boards, as defined in the *Municipal Affairs Act*, as the Tribunal determines, and may further direct that particulars of objections to the closing shall be filed with the Tribunal and the Minister within such time as the Tribunal directs.

Powers of Tribunal

(4) Upon the hearing of the application, the Tribunal may make an order refusing its approval or granting its approval upon such terms and conditions as it considers proper.

RETAIL BUSINESS HOLIDAYS ACT

109 (1) Subsections 4.3 (1), (3), (4) and (7) of the *Retail Business Holidays Act* are repealed and the following substituted:

Appeal to L.P.A.T.

(1) Any person who objects to a by-law made by the council of a municipality under section 4 may appeal to the Local Planning Appeal Tribunal by filing a notice of appeal with the Tribunal setting out the objection to the by-law and the reasons in support of the objection.

Dismissal without hearing

(3) The Tribunal may, if it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing, but before doing so shall notify the appellant and afford the appellant an opportunity to make representations as to the merits of the appeal.

Powers of L.P.A.T.

(4) The Local Planning Appeal Tribunal may,

- (a) dismiss the appeal;
- (b) dismiss the appeal on the condition that the council amend the by-law in a manner specified by the Tribunal; or
- (c) quash the by-law.

Local Planning Appeal Tribunal Act, 2017, s. 35

(7) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* does not apply to an appeal under this section.

(2) Subsections 4.3 (2), (5), (6) and (8) of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”.

SHORTLINE RAILWAYS ACT, 1995

110 (1) Subsection 8 (2) of the *Shortline Railways Act, 1995* is repealed and the following substituted:

Contents of notice

(2) The notice shall set out the reasons for the refusal, suspension or revocation and advise that an appeal may be made to the Local Planning Appeal Tribunal by filing a request for a hearing with the Tribunal and with the registrar within 15 days after the notice is served under subsection (1).

(2) Subsections 8 (4) and (5) of the Act are amended by striking out “the Ontario Municipal Board” wherever it appears and substituting in each case “the Local Planning Appeal Tribunal”.

(3) Subsection 8 (7) and (8) of the Act are repealed and the following substituted:

Order

(7) The Local Planning Appeal Tribunal may, by order, affirm the refusal, suspension or revocation of the licence or may make such other order consistent with this Act that the Tribunal considers appropriate.

Decision final

(8) The decision of the Local Planning Appeal Tribunal is final.

111 Section 9 of the Act is repealed and the following substituted:

Non-application

9 (1) Sections 5.1 and 21.2 of the *Statutory Powers Procedure Act* and sections 35 and 36 and subsections 37 (1) and (3) of the *Local Planning Appeal Tribunal Act, 2017* do not apply to any hearing under this Act.

Same

(2) Part V of the *Local Planning Appeal Tribunal Act, 2017* does not apply to the Local Planning Appeal Tribunal in respect of shortline railways.

COMMENCEMENT**Commencement**

112 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

EXPLANATORY NOTE

This Explanatory Note was written as a reader's aid to Bill 139 and does not form part of the law. Bill 139 has been enacted as Chapter 23 of the Statutes of Ontario, 2017.

**SCHEDULE 1
LOCAL PLANNING APPEAL TRIBUNAL ACT, 2017**

The *Local Planning Appeal Tribunal Act, 2017* is enacted. The new Act continues the Ontario Municipal Board under the name the Local Planning Appeal Tribunal and repeals the *Ontario Municipal Board Act*.

Many provisions in the new Act and the old Act are substantively the same. Changes are made to the practices and procedures applicable to proceedings before the Tribunal. The new Act lists types of rules that the Tribunal may make regarding its practices and procedures and specifies certain powers of the Tribunal regarding proceedings. For example, the Tribunal may require a case management conference to be held for any proceeding for purposes such as identifying the issues raised by the proceeding, discussing opportunities for settlement and determining administrative details of the conduct of hearings.

The new Act includes provisions applicable to certain appeals of decisions regarding official plans, zoning by-laws or plans of subdivision made under the *Planning Act*. It provides that a case management conference is mandatory in all such appeals, addresses how a person other than a party to the appeal may participate in the proceeding and sets out requirements applicable if an oral hearing is held in the appeal.

Related regulation-making powers are added, including the authority to prescribe timelines applicable to proceedings on appeals to the Tribunal under the *Planning Act*. The new Act also updates language that was used in the old Act, eliminates obsolete provisions and revokes regulations made under the *Ontario Municipal Board Act*.

**SCHEDULE 2
LOCAL PLANNING APPEAL SUPPORT CENTRE ACT, 2017**

The Schedule enacts the *Local Planning Appeal Support Centre Act, 2017*, which establishes the Local Planning Appeal Support Centre. The Centre is a non-share corporation, the objects of which are,

- (a) to establish and administer a cost-effective and efficient system for providing support services to eligible persons respecting matters governed by the *Planning Act* that are under the jurisdiction of the Local Planning Appeal Tribunal; and
- (b) to establish policies and priorities for the provision of the support services based on its financial resources.

The Centre is not an agent of the Crown nor a Crown agency. It is independent from, but accountable to, the Government of Ontario. (Sections 2 and 3).

Section 4 of the Schedule sets out the support services the Centre is required to provide. Support services must be available throughout Ontario (section 6). Section 5 provides authority for the Centre to establish eligibility criteria for the receipt of support services, subject to regulations made under the Act.

The remaining sections set out the Centre's governance structure and reporting requirements (sections 7 to 11), liability immunity provisions (sections 12 and 13), by-law making authority for the Centre (section 14), and related regulation-making powers of the Lieutenant Governor in Council (section 15).

**SCHEDULE 3
AMENDMENTS TO THE PLANNING ACT, THE CITY OF TORONTO ACT, 2006
AND THE ONTARIO PLANNING AND DEVELOPMENT ACT, 1994**

The Schedule amends the *Planning Act*, the *City of Toronto Act, 2006* and the *Ontario Planning and Development Act, 1994*. Here are highlights of some of those amendments:

The Schedule includes consequential amendments to reflect the enactment of the *Local Planning Appeal Tribunal Act, 2017*. These include changing the references to the *Ontario Municipal Board Act* so they refer to the *Local Planning Appeal Tribunal Act, 2017* and references to the Ontario Municipal Board so they refer to the Local Planning Appeal Tribunal. Other similar consequential amendments to various Acts are set out in Schedule 5.

The definition of "provincial plan" in subsection 1 (1) of the *Planning Act* is amended to include certain policies referred to in the *Lake Simcoe Protection Act, 2008*, the *Great Lakes Protection Act, 2015* and the *Clean Water Act, 2006*.

Section 2.4 of the *Planning Act* currently requires approval authorities and the Ontario Municipal Board, when they make decisions relating to planning matters, to "have regard to" decisions of municipal councils and approval authorities relating to the same planning matter, and to any supporting information and material that was before a municipal council or approval authority relating to the same planning matter. The section is amended to limit its application to specified planning matters relating to official plans, zoning by-laws, interim control by-laws, site plan control, plans of subdivision and consents.

Section 3 of the *Planning Act* currently governs the issuance of policy statements on matters relating to municipal planning. The section is amended to authorize policy statements to require approvals or determinations by one or more ministers for any of the matters provided for in the policy statement. The section is also amended to deem policy statements issued under the *Metrolinx Act, 2006*, the *Resource Recovery and Circular Economy Act, 2016* and other prescribed policies or statements to be policy statements issued under section 3 of the *Planning Act*.

Section 8.1 of the *Planning Act* currently provides for the establishment of a local appeal body which can deal with appeals of certain planning matters. Amendments are made to expand those matters to include appeals and motions for directions related to site plan control and motions for directions related to consents. Amendments are also made to the transitional rules associated with the empowerment of local appeal bodies. Similar amendments are made to section 115 of the *City of Toronto Act, 2006*.

Section 16 of the *Planning Act* currently governs the content of official plans. A new clause 16 (1) (a.1) requires official plans to contain policies relating to affordable housing and a new subsection 16 (14) requires official plans to contain policies relating to climate change. The section is also amended to allow official plans to include policies relating to development around higher order transit stations and stops. These policies would require approval by an approval authority. Decisions on these policies cannot be appealed except by the Minister and requests to amend the policies can only be made with council approval (see subsections 17 (36.1.4) to (36.1.7) and 22 (2.1.3)). When these policies are in place, zoning by-laws that establish permitted uses, minimum and maximum densities and, except in certain circumstances, minimum and maximum heights cannot be appealed except by the Minister (see subsections 34 (19.5) to (19.8)).

New subsections 17 (24.0.1) and (36.0.1) of the *Planning Act* provide that an appeal concerning the adoption or approval of an official plan is restricted to issues of consistency or conformity with provincial plans and policy statements and, as applicable, conformity with official plan policies of upper-tier municipalities. New subsections 17 (49.1) to (49.12) provide rules concerning the Tribunal's powers in connection with such appeals. The authority of the Tribunal to allow such appeals is limited, but where an appeal is allowed, the municipality has a second opportunity to make a decision. If that decision is appealed and the Tribunal again determines that it did not meet the new standard of review, the Tribunal would make another decision. Special rules are provided for certain circumstances where a revised plan is presented to the Tribunal on consent of specified parties. Similar amendments are made to section 22 with respect to appeals of refusals and non-decisions on requests to amend official plans and to section 34 with respect to appeals related to zoning by-laws. In the case of appeals of refusals and non-decisions on applications to amend zoning by-laws, the new subsection 34 (26.13) provides that these appeals shall not be dismissed on the basis of the existing subsection 24 (4) of the Act. Certain rules in section 17, as they read before being amended by the Schedule, are incorporated by reference in section 28 for the purposes of the process, including the appeal process, related to community improvement plans. Similarly, certain rules in section 34, as they read before being amended by the Schedule, are incorporated by reference in sections 38 and 45 for the purposes of the process, including the appeal process, related to interim control by-laws and by-laws establishing municipal criteria for minor variances.

Currently, subsections 17 (51), 22 (11.1) and 34 (27) of the *Planning Act* allow the Minister to advise the Ontario Municipal Board that a matter of provincial interest is, or is likely to be, adversely affected by an official plan or zoning matter appealed to the Board. When the Minister so advises the Board, its decision is not final unless confirmed by the Lieutenant Governor in Council. Currently the Minister must advise the Board not later than 30 days before the hearing of the matter. Amendments are made to require the Minister to advise the Local Planning Appeal Tribunal not later than 30 days after the Tribunal gives notice of a hearing. When the Tribunal is so advised by the Minister, the new limits to the Tribunal's powers on appeal described in the above paragraph would not apply; however, the Tribunal's decision would not be final unless confirmed by the Lieutenant Governor in Council.

New subsections 17 (36.5) and 21 (3) of the *Planning Act* provide that there is no appeal in respect of an official plan or an official plan amendment adopted in accordance with section 26, if the approval authority is the Minister.

In circumstances where no person or public body has a right of appeal in relation to a decision on an official plan, new subsections 17 (27.1) and (38.1) provide for the plan to come into effect on the day after the decision.

Timelines for making decisions related to official plans and zoning by-laws are extended by 30 days (see amendments to sections 17, 22, 34 and 36 of the *Planning Act*). For applications to amend zoning by-laws submitted concurrently with requests to amend a local municipality's official plans, the timeline is extended to 210 days (see subsection 34 (11.0.0.0.1)).

A new subsection 22 (2.1.1) of the *Planning Act* provides that during the two-year period following the adoption of a new secondary plan, applications for amendment are permitted only with council approval. Subsection 22 (2.1.2) describes a secondary plan as a part of an official plan added by amendment that provides more detailed policies and land use designations applicable to part of a municipality.

Currently, subsection 22 (11) of the *Planning Act* incorporates by reference various rules from section 17 concerning appeals to the Ontario Municipal Board. Amendments are made to remove the incorporation by reference and to add those rules as new subsections 22 (11) to (11.0.7), with the corresponding changes that are made to the rules in section 17.

Currently, under subsection 38 (4) of the *Planning Act*, anyone who is given notice of the passing of an interim control by-law may appeal the by-law within 60 days after the by-law is passed. Amendments are made to allow only the Minister to

appeal an interim control by-law when it is first passed. Any person or public body who is given notice of the extension of the by-law can appeal the extension.

Section 41 of the *Planning Act* is amended to make technical changes relating to appeals to the Tribunal concerning site plan control, including a requirement that the clerk forward specified things shortly after the notice of appeal is filed.

Subsection 41 (16) of the *Planning Act* currently provides that section 41 does not apply to the City of Toronto, except for certain subsections. Subsection 14 (16) is amended to remove the references to those excepted subsections. Section 114 of the *City of Toronto Act, 2006* is amended to reflect the rules that were contained in those excepted subsections.

Currently, under section 47 of the *Planning Act*, the Minister may make orders exercising zoning powers or deeming plans of subdivision not to be registered for the purposes of section 50. The rules governing amendments and revocations of such orders are amended. The Minister may refer a request from a person or public body to amend or revoke an order to the Tribunal. If the Tribunal conducts a hearing, the Tribunal must make a written recommendation to the Minister. The Minister may decide to amend or revoke the order and must forward a copy of his or her decision to the specified persons. A new rule also provides that a proponent of an undertaking shall not give notice under the *Consolidated Hearings Act* in respect of a request to amend a Minister's order unless Minister has referred the matter to the Local Planning Appeal Tribunal. A similar rule is added to section 6 of the *Ontario Planning and Development Act, 1994*, which governs the process for amending development plans.

Subsection 51 (52.4) of the *Planning Act* currently allows the Ontario Municipal Board to consider whether information and material that is presented at a hearing of certain appeals related to plans of subdivision and was not provided to the approval authority could have materially affected the approval authority's decision. If the Board determines that it could have done so, the Board is required to give the approval authority an opportunity to reconsider its decision. The subsection is repealed and replaced to prevent information and material that was not provided to the approval authority in the first instance from being admitted into evidence if the approval authority requests to be given an opportunity to reconsider its decision and to make a written recommendation.

New section 70.8 of the *Planning Act* authorizes the Minister to make regulations providing for transitional matters. Subsection 70.8 (3) sets out additional regulation-making authority that applies where a transitional regulation provides for a matter or proceeding to be continued and disposed of in accordance with the Act as it read on the effective date, as defined in the regulations, where a notice of appeal is filed after the day the Bill receives Royal Assent but before the effective date. Subsections 70.8 (6) to (12) set out various immunity provisions relating to anything done under section 70.8.

Various technical amendments are also made to the *Planning Act*.

SCHEDULE 4 AMENDMENTS TO THE CONSERVATION AUTHORITIES ACT

The Schedule makes numerous amendments to the *Conservation Authorities Act*. In addition to many housekeeping amendments, the Schedule makes more significant amendments as follows:

A new purpose section (section 0.1) is added to the Act.

Various amendments are made in relation to the enlargement of the area of jurisdiction of an authority, the amalgamation of two or more authorities and the dissolution of an authority (sections 10, 11 and 13.1), including amendments relating to the notice that is required before some of these events can occur. Also, the amendments to section 11 add a requirement for the Minister's approval of any amalgamation of two or more authorities.

Some amendments are made in relation to the membership and governance of authorities (sections 14 to 19.1). The rules relating to the appointment and term of office of members of an authority are clarified. The maximum term of office of a member is increased from three to four years. A requirement that meetings of the authority be open to the public is added, subject to exceptions that may be provided in an authority's by-laws. Authorities are required to establish advisory boards in accordance with the regulations. A new section 19.1 is enacted setting out the power of an authority to make by-laws in relation to its governance, including its meetings, employees, officers and its executive committee. Many of these powers were previously regulation-making powers that the authorities held under section 30 of the Act. The Minister may direct an authority to make or amend a by-law within a specified time. If the authority fails to do so, the Minister has the power to make a regulation that has the same effect as the by-law was intended to have.

Amendments are made to the objects, powers and duties of authorities (sections 20 to 27.1) in particular their powers in relation to programs and services and in relation to projects that they undertake. New section 21.1 sets out the three types of programs and services that an authority is required or permitted to provide: the mandatory programs and services that are required by regulation, the municipal programs and services that it provides on behalf of municipalities and other programs and services that it determines to provide to further its objects. New section 21.2 sets out the rules for when an authority may charge fees for the programs and services it provides and the rules for determining the amount of the fees charged. Authorities are required to maintain a fee schedule that sets out the programs and services in respect of which it charges a fee and the amount of the fees. The fee schedule is set out in a written fee policy that is available to the public. Persons who are charged a fee by an authority may apply to the authority to reconsider the charging of the fee or the amount of the fee. Sections 24 to 27 of the Act are repealed and replaced with new sections allowing authorities to recover their capital costs

with respect to projects that they undertake and their operating expenses from their participating municipalities. Currently the apportionment of those costs and expenses is based on a determination of the benefit each participating municipality receives from a project or from the authority. The amendments provide that the apportionment will be determined in accordance with the regulations.

The provisions regulating activities that may be carried out in the areas over which authorities have jurisdiction are substantively amended (sections 28 and 29). Section 28 of the Act is repealed. That section currently gives authorities certain regulation-making powers, including the power to regulate the straightening, changing and diverting of watercourses and development in their areas of jurisdiction and to prohibit or require the permission of the authority for such activities. The re-enacted section 28 prohibits such activities so that the previous regulation-making power is no longer required. Furthermore, new section 28.1 gives the authorities the power to issue permits allowing persons to engage in the prohibited activities and section 28.3 allows authorities to cancel the permits in specified circumstances. New regulation-making powers are set out in section 28.5 in respect of activities that impact the conservation, restoration, development or management of natural resources.

Sections 30 and 30.1 are repealed and sections 30.1 to 30.7 are enacted in relation to the enforcement of the Act and offences. Authorities are given the power to appoint officers who may enter lands to ensure compliance with the Act, the regulations and with permit conditions. The officers are also given the power to issue stop orders in specified circumstances. Offences for contraventions of the Act, the regulations, permit conditions and stop orders are set out in section 30.6 and the maximum fines under the Act are increased from \$10,000 to \$50,000 in the case of an individual and to \$1,000,000 in the case of a corporation. An additional fine of \$10,000 a day for individuals and \$200,000 a day for corporations may be imposed for each day the offence continues after the conviction. Section 30.7 expands the existing powers of the court when ordering persons convicted of an offence to repair or rehabilitate any damage resulting from the commission of the offence.

Various regulation-making powers are enacted.

SCHEDULE 5

AMENDMENTS TO VARIOUS ACTS CONSEQUENTIAL TO THE ENACTMENT OF THE LOCAL PLANNING APPEAL TRIBUNAL ACT, 2017

Consequential amendments are made to various Acts to change references to the *Ontario Municipal Board Act* so they refer to the *Local Planning Appeal Tribunal Act, 2017* and to change references to the Ontario Municipal Board so they refer to the Local Planning Appeal Tribunal.

CHAPITRE 23

Loi édictant la Loi de 2017 sur le Tribunal d'appel de l'aménagement local et la Loi de 2017 sur le Centre d'assistance pour les appels en matière d'aménagement local et modifiant la Loi sur l'aménagement du territoire, la Loi sur les offices de protection de la nature et diverses autres lois

Sanctionnée le 12 décembre 2017

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Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Contenu de la présente loi

1 La présente loi est constituée du présent article, des articles 2 et 3 et de ses annexes.

Entrée en vigueur

2 (1) Sous réserve des paragraphes (2) et (3), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.

(2) Les annexes de la présente loi entrent en vigueur comme le prévoit chacune d'elles.

(3) Si une annexe de la présente loi prévoit que l'une ou l'autre de ses dispositions entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation, la proclamation peut s'appliquer à une ou à plusieurs d'entre elles. En outre, des proclamations peuvent être prises à des dates différentes en ce qui concerne n'importe lesquelles de ces dispositions.

Titre abrégé

3 Le titre abrégé de la présente loi est *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*.

ANNEXE 1
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PARTIE I
INTERPRÉTATION**Définitions**

1 Les définitions qui suivent s'appliquent à la présente loi.

«autorité approbatrice» Autorité approbatrice visée à l'article 17 de la *Loi sur l'aménagement du territoire*. («approval authority»)

«conseil local» Conseil, commission, comité, organisme ou office local créé par une loi générale ou spéciale ou exerçant un pouvoir que celle-ci lui confère à l'égard des affaires ou des fins, y compris les fins scolaires, de tout ou partie d'une municipalité. S'entend notamment de ce qui suit :

1. Un conseil scolaire.
2. Une commission de services publics.
3. Une commission de transport.
4. Un conseil de bibliothèque publique.
5. Une commission de gestion des parcs.
6. Un conseil de santé.
7. Une commission de services policiers.
8. Un conseil d'aménagement. («local board»)

«municipalité» S'entend en outre d'un conseil local d'une municipalité et d'un conseil, d'une commission ou d'un autre office local exerçant un pouvoir à l'égard des affaires ou des fins municipales, y compris les fins scolaires, dans un canton non érigé en municipalité ou un territoire qui n'a pas fait l'objet d'un arpentage. («municipality»)

«règles» Les règles établies par le Tribunal en vertu de l'article 32. («rules»)

«Tribunal» Le Tribunal d'appel de l'aménagement local créé en application de la présente loi. («Tribunal»)

PARTIE II
CONSTITUTION DU TRIBUNAL**Prorogation de la C.A.M.O.**

2 (1) La Commission des affaires municipales de l'Ontario est prorogée sous le nom de Tribunal d'appel de l'aménagement local en français et de Local Planning Appeal Tribunal en anglais.

Mentions de la C.A.M.O.

(2) Toute mention de la Commission des affaires municipales de l'Ontario ou de cette commission sous toute autre appellation dans une loi générale ou spéciale ou dans un règlement vaut mention du Tribunal.

Composition du Tribunal

3 (1) Le Tribunal se compose de membres que nomme le lieutenant-gouverneur en conseil.

Présidence et vice-présidence

(2) Le lieutenant-gouverneur en conseil nomme un président du Tribunal et peut nommer un ou plusieurs vice-présidents parmi ses membres.

Président suppléant

(3) Le lieutenant-gouverneur en conseil désigne celui des membres du Tribunal qui sera président suppléant.

Idem

(4) Le président suppléant exerce les fonctions du président en cas d'empêchement de celui-ci et, à cette fin, dispose de tous les pouvoirs du président.

Fonctions du président

(5) Le président détient un pouvoir général de supervision et de direction sur les activités du Tribunal, organise ses séances et affecte ses membres à celles-ci selon ce que les circonstances exigent.

Quorum

4 Un membre du Tribunal constitue le quorum et peut pleinement en exercer la compétence et les pouvoirs.

Formation de plus de deux membres

5 Le nombre des membres du Tribunal qui président à une audience doit être impair s'il est supérieur à deux.

Mandat

6 (1) Le lieutenant-gouverneur en conseil fixe le mandat des membres du Tribunal.

Expiration du mandat

(2) Si le mandat d'un membre du Tribunal qui a participé à une instance expire avant que l'instance ne soit réglée, il est réputé se poursuivre, mais à la seule fin de régler l'instance et à nulle autre fin.

Employés

7 Le Tribunal peut nommer les employés qu'il estime nécessaires à son bon fonctionnement, auquel cas ces employés sont nommés aux termes de la partie III de la *Loi de 2006 sur la fonction publique de l'Ontario*.

Témoignage

8 Les membres ou les employés du Tribunal ne sont pas tenus de témoigner dans une cause civile ou dans une autre instance au sujet de renseignements qu'ils ont obtenus dans l'exercice de leurs fonctions.

Immunité

9 (1) Sont irrecevables les actions ou autres instances introduites contre le Tribunal ou un de ses membres ou employés pour un acte accompli ou omis de bonne foi dans l'exercice effectif ou cense tel des pouvoirs ou fonctions que lui attribue une loi générale ou spéciale.

Responsabilité de la Couronne

(2) Malgré les paragraphes 5 (2) à (4) de la *Loi sur les instances introduites contre la Couronne*, le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par une personne visée au paragraphe (1).

Lieu de réunion

10 Si le Tribunal siège dans une municipalité où se trouve un lieu de réunion adéquat appartenant à la municipalité, celle-ci permet sur demande que le Tribunal y siège et prend toutes les mesures nécessaires à cette fin.

**PARTIE III
COMPÉTENCE ET POUVOIRS GÉNÉRAUX****Compétence exclusive**

11 (1) Le Tribunal a compétence exclusive à l'égard des questions qui relèvent de sa compétence en vertu de la présente loi ou d'une autre loi générale ou spéciale.

Pouvoir de décision sur les questions de droit et de fait

(2) Le Tribunal possède le pouvoir, dans le cadre de la compétence que lui confère la présente loi, d'entendre et de trancher toute question de droit ou de fait, sauf disposition contraire de la présente loi ou d'une autre loi générale ou spéciale.

Pouvoir de rendre des ordonnances

12 (1) Le Tribunal possède le pouvoir de rendre des ordonnances et de donner des directives selon ce qui peut se révéler nécessaire ou accessoire à l'exercice des pouvoirs qui lui sont conférés en vertu de la présente loi ou d'une autre loi générale ou spéciale.

Conditions

(2) Le Tribunal peut assortir l'ordonnance des conditions qu'il estime justes dans les circonstances, notamment la condition que l'ordonnance prend effet à une date ultérieure qu'il fixe ou lors de l'observation des conditions qu'il exige.

Ordonnances provisoires sans préavis

(3) Le Tribunal peut rendre une ordonnance provisoire sans préavis s'il l'estime nécessaire. Toutefois, une telle ordonnance ne doit pas être rendue pour une durée plus longue que celle que le Tribunal estime nécessaire afin de lui permettre d'entendre et de trancher la question.

Redressement partiel ou différent

(4) Sauf indication spécifique contraire d'une loi générale ou spéciale en ce qui concerne une instance dont il est saisi, le Tribunal peut, selon ce qu'il estime équitable et indiqué :

- a) rendre une ordonnance aux termes de laquelle il accorde tout ou partie du redressement demandé;
- b) rendre une ordonnance aux termes de laquelle il accorde un redressement qui s'ajoute à celui qui est demandé ou qui le remplace.

Prorogation du délai imparti dans l'ordonnance

(5) Le Tribunal peut, après avis et audience, proroger le délai imparti dans une de ses ordonnances ou décisions pour faire quoi que ce soit.

Idem

(6) Malgré le paragraphe (5), le Tribunal peut, sans préavis, proroger un délai imparti s'il l'estime nécessaire.

Pouvoir de pénétrer et d'inspecter

13 (1) Tout membre ou employé du Tribunal peut, sans mandat, pénétrer à toute heure raisonnable dans un lieu autre qu'une habitation pour l'inspecter s'il a des motifs de croire qu'il s'y trouve des preuves pertinentes pour une instance dont est saisi le Tribunal.

Identification

(2) La personne qui exerce le pouvoir que lui confère le paragraphe (1) révèle son identité au propriétaire ou à l'occupant du lieu et explique l'objet de l'entrée ou de l'inspection.

Pouvoir de fixer et d'exiger des droits

14 (1) Le Tribunal peut, sous réserve de l'approbation du procureur général, fixer et exiger des droits pour ce qui suit :

- a) les instances introduites devant lui;
- b) la fourniture de copies des formulaires, avis ou documents déposés auprès de lui ou délivrés par lui, ou qui se trouvent en sa possession;
- c) les autres services qu'il fournit.

Idem

(2) Lorsqu'il fixe des droits, le Tribunal peut traiter de différents types d'instances de façon différente.

Accès du public

(3) Le Tribunal veille à mettre son barème de droits à la disposition du public.

Dispense du paiement des droits

(4) Le Tribunal peut dispenser du paiement de tout ou partie des droits pour les particuliers qui sont considérés, conformément aux règles, comme ayant un faible revenu.

PARTIE IV COMPÉTENCE GÉNÉRALE EN MATIÈRE D'AFFAIRES MUNICIPALES

Compétence générale du Tribunal en matière d'affaires municipales

15 (1) Le Tribunal possède, en matière d'affaires municipales, la compétence et les pouvoirs suivants :

- a) approuver l'exercice de tout ou partie des pouvoirs conférés à une municipalité par une loi générale ou spéciale qui peuvent impliquer ou nécessiter ou qui impliqueront ou nécessiteront l'emprunt de sommes d'argent par voie d'émission de débentures, la création d'une dette ou l'émission de débentures, laquelle approbation est demandée volontairement par la municipalité ou obtenue par elle en application de la loi;
- b) approuver un règlement municipal ou un projet de règlement municipal d'une municipalité, laquelle approbation est demandée volontairement par la municipalité ou obtenue par elle en application de la loi;
- c) autoriser l'émission par une municipalité, sans l'assentiment des électeurs, de débentures en vue d'acquitter une dette flottante qu'elle a contractée, selon les modalités, aux conditions et aux dates qu'il approuve, ou ordonner qu'une telle dette flottante soit acquittée d'une autre façon et dans le délai qu'il exige;
- d) autoriser l'émission par la municipalité, sans l'assentiment des électeurs, de débentures en vue du rachat de débentures rachetables avant leur échéance, et réunir la somme requise pour le remboursement de ces nouvelles débentures de la même façon que la somme requise pour le remboursement des débentures rachetées;
- e) attester la validité de débentures émises en application d'un règlement municipal qu'il a approuvé;

- f) ordonner, avant qu'il n'approuve l'exercice d'un pouvoir ou l'adoption d'un règlement municipal par une municipalité ou avant qu'il n'autorise l'émission de débentures par une municipalité pour rembourser une dette flottante, que cette municipalité obtienne au préalable l'assentiment de ses électeurs ou de ceux de ses électeurs qui ont le droit de vote en matière de règlements municipaux de finance, même si un tel assentiment n'est pas exigé par ailleurs;
- g) superviser, s'il l'estime nécessaire, la dépense de sommes empruntées par une municipalité avec son approbation;
- h) exiger et obtenir d'une municipalité, à tout moment et pour toute période donnée, des états détaillés sur les affaires de celle-ci, en matière de finances ou autres;
- i) examiner à tout moment une affaire ou l'ensemble des affaires d'une municipalité, en matière de finances et autres, et tenir les audiences et mener les enquêtes à l'égard de ces affaires qui lui semblent nécessaires dans l'intérêt de la municipalité, de ses contribuables, de ses habitants et de ses créanciers et notamment faire les examens, tenir les audiences et mener les enquêtes voulus afin d'éviter qu'une municipalité omette de se conformer à ses obligations ou qu'elle ne récidive à ce sujet;
- j) s'il y est autorisé aux termes d'une convention conclue par deux municipalités ou plus et qui stipule que les municipalités acceptent d'être liées par sa décision, entendre et trancher les différends qui se rapportent à la convention;
- k) si un service d'eau ou d'égout est fourni ou doit être fourni par une municipalité à une autre municipalité, entendre et trancher la demande de l'une ou de l'autre des municipalités de confirmer, de modifier ou de fixer les tarifs exigés ou qui seront exigés à l'égard de ce service.

Idem

(2) Les alinéas (1) c) et d) s'appliquent malgré toute loi générale ou spéciale.

Requête volontaire en approbation d'un règlement municipal

16 Une municipalité peut présenter au Tribunal une requête en approbation d'un règlement municipal dont l'adoption a été autorisée par ordonnance du Tribunal rendue conformément à l'article 25.

Requête en approbation d'un règlement municipal qui autorise un emprunt

17 (1) Quiconque peut présenter au Tribunal une requête en approbation d'un règlement municipal d'une municipalité autorisant une débenture, un emprunt ou une autre dette s'il s'agit de la personne, selon le cas :

- a) qui détient la débenture ou a le droit de la recevoir ou de recevoir le produit de sa vente;
- b) à qui la municipalité a emprunté les fonds;
- c) auprès de qui la municipalité a contracté la dette.

Approbation du Tribunal

(2) Le Tribunal peut approuver le règlement municipal visé par la requête présentée en vertu du présent article.

Interdiction d'accorder une approbation en cas d'instance en cours

18 Le Tribunal ne doit pas accorder une approbation ou délivrer un certificat en vertu de la présente loi ou d'une autre loi générale ou spéciale dans le cadre d'une question d'ordre municipal si une action ou une instance concernant cette question est en cours, notamment une requête en cassation d'un règlement municipal qui s'y rapporte.

Délai pour attester la validité des débentures

19 (1) Le Tribunal ne doit pas attester la validité de débentures émises en vertu d'un règlement municipal d'une municipalité avant qu'un délai de 30 jours ne se soit écoulé après l'adoption définitive de ce règlement municipal, à moins qu'un avis de requête en attestation n'ait été publié ou donné de la façon qu'il ordonne.

Exception

(2) Le présent article ne s'applique pas à une débenture autorisée en vertu de l'alinéa 15 (1) d) ou à un règlement municipal de refonte si chaque règlement municipal refondu a été adopté définitivement au moins 30 jours avant l'attestation.

Validation de règlements municipaux et de débentures

20 (1) Une requête en approbation d'un règlement municipal autorisant l'émission de débentures ou en approbation de débentures peut être présentée au Tribunal avant l'émission des débentures par la municipalité ou après leur émission et leur vente par celle-ci.

Idem

(2) S'agissant d'une requête présentée en vertu du paragraphe (1), le Tribunal peut approuver le règlement municipal et attester la validité des débentures, malgré une omission, une illégalité, un motif d'invalidation ou une irrégularité dans le règlement municipal, dans les débentures ou dans une instance qui s'y rapporte ou qui en découle, qui sont constatés avant ou après l'adoption définitive du règlement municipal ou l'émission des débentures.

Interdiction d'approuver un règlement municipal s'il est cassé

(3) Le Tribunal ne doit pas approuver un règlement municipal d'une municipalité ou attester la validité de débentures émises en application de ce règlement municipal, si leur validité est contestée dans un litige en instance ou si un tribunal a annulé, cassé ou déclaré nul le règlement municipal.

Attestation de la validité des débentures

21 Les débentures dont la validité est attestée par le Tribunal sont revêtues de son certificat, rédigé selon la formule qu'il approuve. Le certificat établit que le Tribunal a approuvé le règlement municipal en application duquel les débentures sont émises et qu'elles sont émises conformément à cette approbation.

Validité des débentures attestées

22 Malgré toute loi générale ou spéciale, les règlements municipaux d'une municipalité approuvés par le Tribunal et les débentures émises en application de ceux-ci qui sont revêtues du certificat du Tribunal sont valides, à tous égards, et exécutoires à l'égard de la municipalité, de ses contribuables et des biens-fonds assujettis aux impôts fonciers qu'ils établissent. La validité de ces règlements municipaux et de ces débentures ne doit pas être contestée ni mise en doute de quelque manière que ce soit.

Champ des examens du Tribunal

23 (1) Le Tribunal peut examiner les questions visées au paragraphe (2) avant d'approuver une requête d'une municipalité portant sur l'une ou l'autre des mesures suivantes :

1. L'approbation de l'exercice par la municipalité de l'un de ses pouvoirs.
2. L'autorisation de contracter une dette.
3. L'autorisation d'émettre des débentures.
4. L'approbation d'un règlement municipal.

Idem

(2) Pour l'application du paragraphe (1), les questions visées sont les suivantes :

1. La nature du pouvoir que la municipalité désire exercer ou du projet qu'elle envisage d'entreprendre ou qu'elle a entrepris.
2. La situation financière et les obligations financières de la municipalité.
3. La charge fiscale imposée aux contribuables.
4. Les autres questions que le Tribunal estime pertinentes.

Dispense de l'assentiment des électeurs

24 (1) Le présent article s'applique si, en vertu d'une loi générale ou spéciale, une municipalité doit obtenir l'assentiment préalable de ses électeurs ou de ceux qui ont le droit de vote en matière de règlements municipaux de finance avant de pouvoir exercer un de ses pouvoirs, contracter une dette, émettre des débentures ou adopter un règlement municipal.

Idem

(2) Le Tribunal ne doit pas approuver l'exercice du pouvoir, autoriser à contracter la dette ou à émettre les débentures, ou approuver le règlement municipal tant que n'a pas été obtenu l'assentiment des électeurs, à moins d'être convaincu, après un examen en bonne et due forme et compte tenu de circonstances, qu'un tel assentiment peut convenablement faire l'objet d'une dispense.

Idem

(3) S'il est convaincu de ce que prévoit le paragraphe (2), le Tribunal peut, dans son ordonnance, déclarer et ordonner que, malgré les dispositions de la loi générale ou spéciale, l'obtention de l'assentiment d'électeurs précisés ou non n'est pas requise.

Audience

(4) Sous réserve des paragraphes (5), (6) et (7), le Tribunal, avant de rendre l'ordonnance prévue au paragraphe (3), tient une audience afin d'examiner le bien-fondé de la question et d'entendre les objections que quiconque désire porter à sa connaissance.

Avis précisant le dépôt des objections

(5) Le Tribunal peut donner avis de l'audience de la façon qu'il estime indiquée et ordonner que l'avis précise que quiconque désire présenter une objection relative à la dispense d'obtention de l'assentiment des électeurs peut, dans le délai qu'il précise, déposer son objection auprès du secrétaire de la municipalité ou, s'il s'agit d'un conseil local, auprès du secrétaire du conseil local.

Absence d'objection

(6) Après avoir donné l'avis prévu au paragraphe (5), le Tribunal peut, si aucun avis d'objection n'a été déposé dans le délai imparti dans l'avis, accorder la dispense de l'obligation d'obtenir l'assentiment des électeurs sans tenir d'audience.

En cas d'objections

(7) Si une objection ou plus sont déposées dans le délai imparti dans l'avis, le Tribunal tient une audience à moins que, compte tenu des circonstances qui se rapportent à la question, il juge que l'objection ou, s'il y en a plusieurs, que l'ensemble des objections ne constitue pas un motif suffisant pour justifier la tenue d'une audience.

Dispense d'audience en cas d'approbation de dépenses supplémentaires

(8) Malgré le paragraphe (4), s'il a approuvé une dépense à une fin quelconque, le Tribunal peut, sans tenir d'audience, dispenser de l'obligation d'obtenir l'assentiment des électeurs d'une municipalité ou de ceux qui ont le droit de vote en matière de règlements municipaux de finance et approuver des dépenses supplémentaires destinées à la même fin n'excédant pas 25 % des dépenses initiales approuvées.

Conditions pour la dispense du vote

(9) Dans l'ordonnance qu'il rend aux termes du paragraphe (3) pour dispenser de l'obligation d'obtenir l'assentiment d'électeurs précisés ou non, le Tribunal peut imposer les conditions et les restrictions qui lui semblent nécessaires, non seulement au sujet de la question visée par l'ordonnance rendue, mais également en ce qui concerne l'exercice étendu ou ultérieur des pouvoirs de la municipalité ou en ce qui concerne la création d'autres dettes, l'émission d'autres débentures ou l'adoption d'un autre règlement municipal.

Restrictions : dette

25 (1) Malgré toute loi générale ou spéciale, la municipalité ou le conseil auquel s'applique le présent paragraphe ne doit autoriser aucuns travaux ou aucune catégorie de travaux, exercer aucun de ses pouvoirs pour les accomplir ni fournir de l'argent à leur égard, si tout ou partie de leur coût doit ou peut être financé après la fin du mandat du conseil.

Application du par. (1)

(2) Le paragraphe (1) s'applique à un conseil local, autre qu'un conseil au sens du paragraphe 1 (1) de la *Loi sur l'éducation*, qui a le droit de présenter une demande au conseil d'une municipalité pour que des sommes d'argent soient fournies au moyen de l'émission de débentures de la municipalité.

Approbation du Tribunal non requise

(3) Le paragraphe (1) ne s'applique pas à ce qui suit :

- a) tout ce qui est accompli avec l'approbation du Tribunal, si cette approbation est :
 - (i) d'une part, prévue par une autre loi ou une autre disposition de la présente loi,
 - (ii) d'autre part, obtenue au préalable;
- b) un règlement municipal d'une municipalité qui contient une disposition précisant qu'il ne doit pas entrer en vigueur avant son approbation par le Tribunal;
- c) la nomination d'un ingénieur, d'un arpenteur-géomètre ou d'un commissaire aux termes de la *Loi sur le drainage*;
- d) tout ce qui est accompli par une municipalité et qui n'entraîne pas le dépassement par celle-ci du plafond prescrit en vertu du paragraphe 401 (4) de la *Loi de 2001 sur les municipalités*;
- e) un règlement municipal ou une résolution d'un conseil local visé au paragraphe (2) qui contient une disposition précisant qu'il ne doit pas entrer en vigueur avant son approbation par la municipalité.

Approbation du Tribunal

(4) L'approbation du Tribunal visée à l'alinéa (3) a) s'entend et, malgré la décision de tout tribunal, est réputée s'être toujours entendue au sens de l'autorisation des travaux visés au paragraphe (1).

Définition

(5) La définition qui suit s'applique au présent article.

«travaux» S'entend en outre d'entreprises, de projets, de plans, d'actes, d'affaires ou de choses.

Non-application

(6) Le présent article ne s'applique pas à la cité de Toronto.

Examen de la requête par le Tribunal

26 Sur requête présentée au Tribunal en vue d'obtenir l'approbation requise par l'article 25, le Tribunal procède à l'examen de la requête de la façon prévue à l'article 23 en tenant compte des questions qui y sont mentionnées. Le Tribunal peut tenir les audiences publiques qui lui semblent nécessaires.

Le Tribunal peut assortir son approbation de conditions

27 Le Tribunal peut, selon ce qu'il estime nécessaire et à titre de condition à l'octroi de l'approbation requise par l'article 25, imposer à la municipalité des restrictions et des conditions à l'égard de la question dont il est saisi, à l'égard des dépenses annuelles actuelles ou futures de la municipalité quelle qu'en soit l'affectation ou à l'égard de l'émission d'autres débetures par la municipalité.

PARTIE V**COMPÉTENCE EN MATIÈRE DE CHEMINS DE FER ET DE SERVICES PUBLICS****Interprétation**

28 Les définitions qui suivent s'appliquent à la présente partie.

«chemin de fer» Tout chemin de fer que la compagnie a le pouvoir de construire ou d'exploiter. S'entend en outre de l'ensemble des voies de desserte, voies d'évitement, gares, quais, matériel roulant et autre, entrepôts, biens meubles et immeubles et ouvrages connexes, ainsi que des ponts et tunnels de chemin de fer et des autres structures que la compagnie est autorisée à construire. («railway»)

«compagnie» Compagnie de chemin de fer, de tramway ou de funiculaire. S'entend, en outre, de toute compagnie, personne ou municipalité qui a le pouvoir de construire ou d'exploiter un chemin de fer, un tramway ou un funiculaire. («company»)

«service public» Ouvrage fournissant au grand public des services essentiels ou utiles. S'entend notamment d'un ouvrage de purification de l'eau, de distribution de gaz, y compris un ouvrage de production, de transmission, de distribution et de fourniture de gaz naturel, de chauffage, d'éclairage et d'énergie électriques ainsi que d'un réseau téléphonique. («public utility»)

«tramway» Chemin de fer construit ou exploité le long d'une voie publique ou sur celle-ci en vertu d'une convention conclue avec une cité ou une ville ou en vertu d'un de ses règlements municipaux, même s'il s'écarte de la voie publique pour emprunter une emprise de la compagnie. S'entend en outre des portions du chemin de fer situées dans la cité ou la ville et à au plus 2,4 kilomètres au-delà de ses limites, ainsi que de toute partie d'un chemin de fer électrique qui se trouve dans les limites de la cité ou de la ville et qui est construite ou exploitée le long d'une voie publique ou sur celle-ci. S'entend également des autobus et autres véhicules de transport exploités aux fins et dans le cadre d'un tramway. («street railway»)

Application de la partie à tous les chemins de fer

29 Les dispositions de la présente partie relatives aux chemins de fer s'appliquent à tous les chemins de fer, y compris les tramways.

Compétence du Tribunal

30 (1) Le Tribunal possède la compétence et le pouvoir de faire ce qui suit :

- a) entendre et trancher les requêtes relatives à un chemin de fer ou à un service public, à sa construction, à son entretien ou à son exploitation qui sont fondées sur l'infraction ou le défaut de la part d'une personne, d'une entreprise, d'une compagnie, d'une personne morale ou d'une municipalité de se conformer aux exigences prévues par la présente loi ou une autre loi générale ou spéciale ou par un règlement, une règle, un règlement municipal ou une ordonnance rendue en vertu de ceux-ci, ou qui est prévue par une convention conclue en ce qui concerne un tel chemin de fer ou un tel service public, sa construction, son entretien ou son exploitation;
- b) entendre et trancher les requêtes relatives aux tarifs exigés par un particulier, une entreprise, une compagnie, une personne morale ou une municipalité qui exploite un chemin de fer ou un service public, si ces tarifs excèdent ceux approuvés ou prescrits par une autorité légitime, ou si ces tarifs sont de toute autre façon illégaux.

Compétence à l'égard de séquestres ou de liquidateurs

(2) Les cadres, dirigeants, liquidateurs ou séquestres d'un chemin de fer ou d'un service public doivent le gérer, l'exploiter ou le liquider conformément à la présente loi et aux termes des ordonnances et des directives du Tribunal, qu'elles soient d'ordre général ou qu'elles visent un chemin de fer ou un service public en particulier.

Idem

(3) Le fait qu'une personne gère, exploite ou liquide un chemin de fer ou un service public en vertu du pouvoir qui lui est conféré par un tribunal n'empêche pas l'exercice par le Tribunal de la compétence ou du pouvoir que lui confère la présente loi ou une autre loi générale ou spéciale.

PARTIE VI
RÈGLES DE PRATIQUE ET DE PROCÉDURE

DISPOSITIONS GÉNÉRALES

Règlement des instances

31 (1) Le Tribunal décide des instances dont il est saisi conformément aux pratiques et aux procédures exigées en application, selon le cas :

- a) de la présente loi ou de ses règlements d'application;
- b) de la *Loi sur l'exercice des compétences légales*, à moins que cette loi ne soit incompatible avec la présente loi, ses règlements d'application ou les règles du Tribunal;
- c) de toute autre loi générale ou spéciale.

Pratique et procédure

(2) Le Tribunal adopte, à l'égard de chaque instance dont il est saisi, toutes pratiques et procédures que prévoient ses règles ou qui sont par ailleurs à sa disposition, et qui constituent, selon lui, le meilleur moyen pour parvenir à un règlement juste, équitable et expéditif quant au bien-fondé des instances.

Loi sur l'exercice des compétences légales

(3) Malgré l'article 32 de la *Loi sur l'exercice des compétences légales*, la présente loi, ses règlements d'application et les règles du Tribunal l'emportent sur les dispositions incompatibles de cette loi.

Règles

32 (1) Le Tribunal peut établir ses propres règles de pratique et de procédure.

Portée

(2) Les règles peuvent avoir une portée générale ou particulière.

Autres règles

(3) Sans préjudice de la portée générale du paragraphe (1), les règles du Tribunal peuvent :

- a) prévoir et exiger le recours à des audiences ou à des pratiques et procédures qui constituent des solutions de rechange aux procédures juridictionnelles ou accusatoires traditionnelles;
- b) prévoir ou exiger la remise d'avis d'une manière particulière;
- c) autoriser le Tribunal à tenir des audiences ou d'autres instances par écrit ou par des moyens électroniques ou automatisés;
- d) autoriser le Tribunal à réunir deux instances ou plus, en totalité ou en partie, ou à les instruire simultanément;
- e) autoriser le Tribunal à nommer, parmi une catégorie de parties à l'instance qui, à son avis, ont un intérêt commun, une personne pour représenter cette catégorie;
- f) prévoir le moment où le Tribunal peut entendre une personne qui n'est pas une partie et la manière dont il peut le faire.

Loi de 2006 sur la législation

(4) La partie III (Règlements) de la *Loi de 2006 sur la législation* ne s'applique pas aux règles.

Inobservation des règles

(5) Le défaut de la part du Tribunal de se conformer aux règles ou l'exercice par lui d'un pouvoir discrétionnaire prévu par les règles d'une manière particulière ne constitue pas un motif d'annulation d'une de ses décisions dans le cadre d'une requête en révision judiciaire ou d'un appel, à moins que le défaut ou l'exercice du pouvoir discrétionnaire n'ait causé un préjudice grave qui a eu une incidence sur la décision définitive dans l'affaire.

Pouvoir du Tribunal : instances**Pouvoir d'exiger une conférence de gestion de la cause**

33 (1) Le Tribunal peut enjoindre aux parties à une instance dont il est saisi de participer à une conférence de gestion de la cause avant une audience aux fins suivantes :

1. Identifier d'autres parties à l'instance.
2. Préciser, définir ou restreindre les questions soulevées dans l'instance.
3. Préciser les faits ou les éléments de preuve sur lesquels les parties peuvent s'entendre.
4. Donner des directives quant à la divulgation de renseignements.

5. Discuter des possibilités de règlement à l'amiable, notamment le recours à la médiation ou à d'autres méthodes de règlement des différends.
6. Fixer les dates auxquelles des étapes de l'instance doivent être accomplies ou engagées.
7. Préciser la durée, le calendrier et le lieu d'une audience éventuelle.
8. Déterminer l'ordre de présentation des observations.
9. Régir toute autre question susceptible de faciliter un règlement équitable, juste et expéditif des questions en litige.

Pouvoir d'interroger

(2) À n'importe quelle étape d'une instance, le Tribunal peut :

- a) interroger une partie à l'instance;
- b) interroger une personne autre qu'une partie qui lui présente des observations à l'égard de l'instance;
- c) exiger qu'une partie à l'instance ou une autre personne qui lui présente des observations à l'égard de l'instance produise des preuves pour qu'il les examine;
- d) exiger qu'une partie à l'instance produise un témoin pour qu'il l'interroge.

Pouvoir de rendre des ordonnances de confidentialité

(3) Le Tribunal peut ordonner qu'un document déposé dans une instance dont il est saisi soit traité comme un document confidentiel et ne soit pas divulgué au public, s'il estime que, selon le cas :

- a) des questions intéressant la sécurité publique pourraient être révélées;
- b) le document contient des renseignements sur des questions financières ou personnelles d'ordre privé ou d'autres questions telles que l'intérêt public ou l'intérêt de la personne concernée serait mieux servi en ne divulguant pas le document, en dépit du principe de la publicité des documents déposés dans le cadre d'une instance.

Pouvoir de fixer les dépens

(4) Sous réserve de toute loi générale ou spéciale, le Tribunal peut fixer les dépens, y compris accessoires, relatifs à une instance conformément aux règles et aux règlements pris en vertu de la présente loi.

Les décisions du Tribunal sont définitives

34 Sauf dans les cas prévus aux articles 35 et 37, les décisions ou les ordonnances du Tribunal sont définitives et lient les parties.

Révision des décisions du Tribunal

35 Le Tribunal peut, conformément aux règles, réviser, annuler ou modifier une décision ou une ordonnance qu'il rend.

Exposé de cause en vue d'obtenir l'opinion de la Cour divisionnaire

36 (1) Le Tribunal peut, d'office ou sur requête d'une partie, exposer une cause par écrit en vue d'obtenir l'opinion de la Cour divisionnaire sur une question de droit.

Observations du Tribunal

(2) La Cour divisionnaire peut entendre les observations du Tribunal sur l'exposé de cause.

Opinion de la Cour

(3) La Cour divisionnaire entend l'exposé de cause, rend sa décision sur celui-ci et le remet au Tribunal accompagné de son opinion.

Aucun sursis

(4) Sauf ordonnance contraire du Tribunal ou de la Cour divisionnaire, la présentation d'un exposé de cause à la Cour divisionnaire en vertu du paragraphe (1) n'a pas pour effet de surseoir à l'exécution de la décision ou de l'ordonnance définitive du Tribunal.

Demande de réexamen

(5) Dans les 30 jours qui suivent la réception de la décision de la Cour divisionnaire, toute partie à l'instance relative à l'exposé de cause peut présenter une requête au Tribunal afin qu'il réexamine sa décision ou son ordonnance initiale conformément à l'article 35.

Appel

37 (1) Sous réserve de toute loi générale ou spéciale, un appel concernant une question de droit peut être interjeté par le Tribunal devant la Cour divisionnaire avec l'autorisation préalable de celle-ci, sauf en ce qui concerne les affaires relevant de la partie IV.

Avis au Tribunal

(2) Quiconque interjette appel d'une décision ou d'une ordonnance en vertu du présent article donne au Tribunal avis de la motion en autorisation d'interjeter appel.

Le Tribunal peut être entendu par l'intermédiaire d'un avocat

(3) Le Tribunal a le droit d'être entendu lors des plaidoiries qui se rapportent à l'appel, notamment lors d'une motion en autorisation d'interjeter appel.

Pas de responsabilité quant au paiement des dépens

(4) Ni le Tribunal, ni ses membres ne sont responsables du paiement des dépens qui résultent ou qui se rapportent à un appel interjeté en vertu du présent article.

APPELS RELEVANT DE LA LOI SUR L'AMÉNAGEMENT DU TERRITOIRE**Champ d'application**

38 (1) Les pratiques et les procédures énoncées aux articles 39, 40 et 42 s'appliquent aux appels interjetés devant le Tribunal dans le cadre des paragraphes 17 (24) et (36), 22 (7) et 34 (11) et (19) de la *Loi sur l'aménagement du territoire* qui sont fondés sur une décision d'une municipalité ou d'une autorité approbatrice concernant un plan officiel ou un règlement municipal de zonage ou le défaut d'une municipalité de rendre une telle décision, à l'exception des appels suivants :

- a) les appels fondés sur une nouvelle décision que le Tribunal a donné à la municipalité ou à l'autorité approbatrice l'occasion de rendre, s'il a décidé que cette décision est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1) de la *Loi sur l'aménagement du territoire*, qu'elle n'est pas conforme à un plan provincial ou est incompatible avec un tel plan, ou n'est pas conforme à un plan officiel applicable;
- b) les appels dans lesquels le Tribunal a reçu un avis du ministre responsable de l'application de la *Loi sur l'aménagement du territoire*, conformément à cette loi, que tout ou partie du plan ou du règlement municipal qui fait l'objet de l'appel porte ou portera vraisemblablement atteinte à une question d'intérêt provincial;
- c) les appels interjetés dans le cadre du paragraphe 22 (7) ou 34 (11) de la *Loi sur l'aménagement du territoire* concernant le défaut d'une municipalité de rendre une nouvelle décision que le Tribunal lui a donné l'occasion de rendre.

Idem

(2) Les pratiques et les procédures énoncées aux articles 39, 41 et 42 s'appliquent à l'égard des appels interjetés devant le Tribunal dans le cadre des paragraphes 17 (40) et 51 (34) de la *Loi sur l'aménagement du territoire* concernant le défaut d'une autorité approbatrice de rendre une décision à l'égard d'un plan officiel ou d'un plan de lotissement.

Délai

(3) Les appels visés au présent article doivent respecter les délais prescrits par les règlements pris en vertu de la présente loi.

Obligation de participer à une conférence de gestion de la cause

39 (1) Sur réception du dossier d'appel, le Tribunal enjoint à l'appelant et à la municipalité ou à l'autorité approbatrice dont la décision ou le défaut de rendre une décision est porté en appel de participer à une conférence de gestion de la cause visée au paragraphe 33 (1).

Idem

(2) La conférence de gestion de la cause exigée au paragraphe (1) donne lieu, entre autres, à la discussion de possibilités de règlement à l'amiable, notamment le recours à la médiation ou à d'autres méthodes de règlement des différends.

Participation d'autres personnes : par. 38 (1)

40 (1) Quiconque, à l'exclusion de l'appelant ou de la municipalité ou de l'autorité approbatrice dont la décision ou le défaut de rendre une décision est porté en appel, souhaite participer à l'appel visé au paragraphe 38 (1) doit présenter au Tribunal des observations écrites sur la question de savoir si la décision ou le défaut de rendre une décision, selon le cas :

- a) est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1) de la *Loi sur l'aménagement du territoire*;
- b) n'est pas conforme à un plan provincial ou lui est incompatible;
- c) n'est pas conforme à un plan officiel applicable.

Échéance

(2) Les observations doivent être présentées au Tribunal au moins 30 jours avant la date de la conférence de gestion de la cause.

Observations, certificat

(3) La personne doit signifier une copie des observations à la municipalité ou à l'autorité approbatrice dont la décision ou le défaut de rendre une décision est porté en appel et déposer auprès du Tribunal un certificat de signification rédigé selon le formulaire qu'il approuve.

Parties supplémentaires

(4) Le Tribunal peut choisir, parmi les personnes qui lui ont présenté des observations écrites, celles qui peuvent participer à l'appel à titre de parties supplémentaires ou, autrement, aux conditions qu'il précise.

Participation d'autres personnes : par. 38 (2)

41 (1) Quiconque, à l'exclusion de l'appelant ou de l'autorité approbatrice dont le défaut de rendre une décision est porté en appel, souhaite participer à l'appel visé au paragraphe 38 (2) doit présenter des observations écrites au Tribunal.

Échéance, signification

(2) Le délai de présentation des observations et les exigences éventuelles en ce qui concerne leur signification sont précisés dans les règles du Tribunal.

Parties supplémentaires

(3) Le Tribunal peut choisir, parmi les personnes qui lui ont présenté des observations écrites, celles qui peuvent participer à l'appel à titre de parties supplémentaires ou, autrement, aux conditions qu'il précise.

Audiences orales**Appels visés au par. 38 (1)**

42 (1) Seules les parties peuvent participer à l'audience orale que le Tribunal tient lors d'un appel visé au paragraphe 38 (1).

Appels visés au par. 38 (2)

(2) Seules les personnes suivantes peuvent participer à l'audience orale que le Tribunal tient lors d'un appel visé au paragraphe 38 (2) :

- a) les parties;
- b) les personnes précisées par le Tribunal en vertu du paragraphe 41 (3) comme pouvant participer à l'audience orale.

Idem

(3) Lors d'une audience orale tenue dans le cadre d'un appel visé au paragraphe 38 (1) ou (2) :

- a) chaque partie ou personne peut présenter des observations orales qui ne dépassent pas la durée prévue par règlement;
- b) aucune partie ou personne ne peut présenter des preuves ni appeler ou interroger des témoins.

RÈGLEMENTS**Règlements**

43 (1) Le ministre peut, par règlement :

- a) régir les pratiques et les procédures du Tribunal, notamment prescrire le déroulement et la forme des audiences, ainsi que les pratiques concernant l'admissibilité des preuves et la forme des décisions;
- b) prévoir la constitution de formations composées de plusieurs membres, chargées d'entendre les instances dont le Tribunal est saisi, et régir la composition de ces formations;
- c) prescrire les délais applicables aux instances tenues dans le cadre des appels dont est saisi le Tribunal en application de la *Loi sur l'aménagement du territoire*.

Disposition transitoire

(2) Le ministre peut, par règlement, traiter des questions transitoires concernant les questions et les instances qui sont introduites avant ou après la date d'entrée en vigueur.

Idem

(3) Les règlements pris en vertu du paragraphe (2) peuvent, notamment :

- a) préciser les catégories de questions et les sortes d'instances qui peuvent être poursuivies et réglées en vertu de la *Loi sur la Commission des affaires municipales de l'Ontario*, telle qu'elle existait la veille de la date d'entrée en vigueur, et celles qui doivent être poursuivies et réglées en vertu de la présente loi, telle qu'elle existait à cette date;
- b) prévoir qu'une affaire ou une instance est réputée avoir été introduite à la date ou dans les circonstances précisées dans le règlement.

Incompatibilité

(4) Les règlements pris en vertu du paragraphe (2) l'emportent sur toute disposition de la présente loi qu'ils mentionnent expressément.

Définition

(5) La définition qui suit s'applique au présent article.

«date d'entrée en vigueur» La date d'entrée en vigueur de l'article 1 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

Règlements : dépens

44 Le lieutenant-gouverneur en conseil peut, par règlement, régir la fixation des dépens par le Tribunal en vertu du paragraphe 33 (4).

PARTIE VII
ABROGATION, ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ**Abrogation**

45 La *Loi sur la Commission des affaires municipales de l'Ontario* est abrogée.

Idem

46 (1) Le Règlement de l'Ontario 189/16 (Frais) pris en vertu de la *Loi sur la Commission des affaires municipales de l'Ontario* est abrogé.

(2) Le Règlement de l'Ontario 30/02 (Consolidating Matters or Hearing Them Together) pris en vertu de la *Loi sur la Commission des affaires municipales de l'Ontario* est abrogé.

Entrée en vigueur

47 La loi figurant à la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Titre abrégé

48 Le titre abrégé de la loi énoncée à la présente annexe est *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

ANNEXE 2
LOI DE 2017 SUR LE CENTRE D'ASSISTANCE POUR LES APPELS EN MATIÈRE D'AMÉNAGEMENT LOCAL

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Définitions

1 Les définitions qui suivent s'appliquent à la présente loi.

«Centre» Le Centre d'assistance pour les appels en matière d'aménagement local créé en application de l'article 2. («Centre»)

«ministre» Le membre du Conseil exécutif à qui le lieutenant-gouverneur en conseil attribue les pouvoirs et fonctions du ministre visé par la présente loi. («Minister»)

«règlements» Les règlements pris en vertu de la présente loi. («regulations»)

«règlements administratifs» Les règlements administratifs autorisés en vertu de l'article 14. («by-laws»)

«Tribunal» Le Tribunal d'appel de l'aménagement local. («Tribunal»)

Création du Centre

2 (1) Est créée une personne morale sans capital-actions appelée Centre d'assistance pour les appels en matière d'aménagement local en français et Local Planning Appeal Support Centre en anglais.

Composition

(2) Le Centre se compose des membres de son conseil d'administration.

Non un organisme de la Couronne

(3) Le Centre n'est ni un mandataire de Sa Majesté ni un organisme de la Couronne pour l'application de la *Loi sur les organismes de la Couronne*.

Exclusion du Trésor

(4) Les fonds et les placements du Centre ne font pas partie du Trésor.

Entité indépendante mais comptable envers l'Ontario

(5) Le Centre est indépendant du gouvernement de l'Ontario, mais il lui rend des comptes, comme le prévoit la présente loi.

Pouvoirs d'une personne physique

(6) Le Centre a la capacité et les droits, pouvoirs et privilèges d'une personne physique, sous réserve des restrictions énoncées dans la présente loi et les règlements.

Application de lois visant les personnes morales

(7) La *Loi sur les personnes morales* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas au Centre, sauf disposition contraire des règlements.

Mission**3** La mission du Centre est la suivante :

- a) élaborer et administrer un système économique et efficace de prestation de services d'assistance aux personnes reconnues comme étant admissibles par la présente loi en ce qui concerne les questions régies par la *Loi sur l'aménagement du territoire* qui relèvent de la compétence du Tribunal;
- b) établir ses politiques et ses priorités relativement à la prestation des services d'assistance en fonction de ses ressources financières.

Prestation de services d'assistance**4** Pour réaliser sa mission, le Centre fournit les services d'assistance suivants :

1. Des renseignements relatifs à l'aménagement de l'utilisation du sol.
2. Des directives concernant la procédure du Tribunal.
3. Des conseils ou de la représentation.
4. Les autres services prescrits par les règlements.

Admissibilité aux services d'assistance

5 (1) Le Centre fixe, sous réserve des règles prescrites dans les règlements, des critères permettant d'établir l'admissibilité à ses services d'assistance.

Catégories

(2) Les critères fixés en application du paragraphe (1) peuvent avoir une portée générale ou particulière, et être différents pour des catégories différentes de personnes.

Mise à disposition des critères

(3) Le Centre veille à ce que le public puisse avoir accès aux critères fixés en application du paragraphe (1).

Non-assimilation des critères aux règlements

(4) La partie III de la *Loi de 2006 sur la législation* ne s'applique pas aux critères fixés en application du présent article.

Accessibilité des services d'assistance

6 Le Centre veille à ce que les services d'assistance qu'il élabore soient accessibles partout dans la province au moyen des modes de prestation de services qu'il estime indiqués.

Conseil d'administration

7 (1) Les affaires du Centre sont régies et gérées par son conseil d'administration, qui est chargé de réaliser la mission du Centre.

Composition et nomination

(2) Le conseil d'administration du Centre se compose d'un maximum de sept membres qui sont tous nommés par le lieutenant-gouverneur en conseil.

Quorum

(3) Sous réserve des règlements administratifs, la majorité des administrateurs constitue le quorum pour la conduite de ses travaux.

Président et vice-président

(4) Le lieutenant-gouverneur en conseil désigne un administrateur à la présidence et peut en désigner un autre à la vice-présidence.

Président intérimaire

(5) En cas d'absence ou d'empêchement du président ou de vacance de son poste, le vice-président, s'il y en a un, exerce les pouvoirs et fonctions du président.

Idem

(6) En cas d'absence du président et du vice-président d'une réunion du conseil, les administrateurs présents nomment un président intérimaire qui exerce les pouvoirs et fonctions du président pendant la réunion.

Rémunération

(7) Les administrateurs peuvent recevoir la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil.

Obligation d'agir de façon responsable

(8) Le conseil d'administration pratique une saine gestion financière assortie de l'obligation de rendre compte lorsqu'il exerce ses pouvoirs et ses fonctions.

Norme de diligence

(9) Les administrateurs agissent de bonne foi et dans le respect de la mission du Centre, et ils agissent avec le soin, la diligence et la compétence dont ferait preuve une personne d'une prudence raisonnable.

Délégation du conseil d'administration

8 (1) Sous réserve du paragraphe (2), le conseil d'administration peut, conformément aux règlements administratifs, déléguer ses pouvoirs ou fonctions à un de ses comités, à un ou plusieurs administrateurs, ou à un ou plusieurs dirigeants ou employés du Centre.

Restriction

(2) Le conseil d'administration ne peut pas déléguer ses pouvoirs ou fonctions en ce qui concerne l'adoption de règlements administratifs ou de résolutions, ou l'approbation des états financiers ou du rapport annuel du Centre.

Délégation

(3) La délégation prévue au paragraphe (1) :

- a) est effectuée par écrit;
- b) peut avoir une portée générale ou particulière et être assortie des conditions ou restrictions que le conseil d'administration estime souhaitables.

Budget annuel

9 Le Centre soumet son budget annuel à l'approbation du ministre pour chaque exercice de la manière, sous la forme et au moment qu'il précise.

Rapport annuel

10 (1) Le Centre présente un rapport annuel au ministre au plus tard quatre mois après la fin de son exercice.

Exercice

(2) L'exercice du Centre commence le 1^{er} avril d'une année et se termine le 31 mars de l'année suivante.

Vérification

11 (1) Le Centre veille à ce que ses livres de comptes soient vérifiés chaque année conformément aux principes comptables généralement reconnus et qu'un exemplaire du rapport de vérification soit remis au ministre.

Vérification par le ministre

(2) Le ministre a le droit de faire une vérification du Centre au moment de son choix.

Immunité

12 (1) Sont irrecevables les actions ou autres instances civiles introduites contre un administrateur, un dirigeant, un employé ou un mandataire du Centre pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel d'un pouvoir ou d'une fonction que lui attribuent la présente loi, les règlements ou les règlements administratifs ou pour une négligence ou un manquement qu'il a commis dans l'exercice de bonne foi de ce pouvoir ou de cette fonction.

Idem

(2) Le paragraphe (1) n'a pas pour effet de dégager le Centre de la responsabilité qu'il serait autrement tenu d'assumer à l'égard d'une cause d'action découlant d'un acte, d'une négligence ou d'un manquement mentionné au paragraphe (1).

Immunité de la Couronne

13 Sont irrecevables les actions ou autres instances civiles introduites contre la Couronne pour un acte accompli ou une négligence ou un manquement commis par une personne visée au paragraphe 12 (1) ou pour un acte accompli ou une négligence ou un manquement commis par le Centre.

Règlements administratifs

14 Le Centre peut, par règlement administratif ou résolution, régir ses travaux et, de façon générale, la conduite et la gestion de ses activités et ses affaires.

Règlements

15 Le lieutenant-gouverneur en conseil peut, par règlement :

- a) prescrire des restrictions pour l'application du paragraphe 2 (6);

- b) prescrire les dispositions des lois mentionnées au paragraphe 2 (7) qui s'appliquent au Centre;
- c) prescrire des services pour l'application de la disposition 4 du paragraphe 4 (1);
- d) régir l'admissibilité aux services d'assistance du Centre;
- e) prévoir d'autres questions que le lieutenant-gouverneur en conseil estime souhaitables pour réaliser l'objet de la présente loi.

Modification de la présente loi

16 Le paragraphe 2 (7) de la Loi est modifié par remplacement de «*Loi sur les personnes morales*» par «*Loi de 2010 sur les organisations sans but lucratif*».

Entrée en vigueur

17 (1) Sous réserve du paragraphe (2), la loi énoncée à la présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

(2) L'article 16 entre en vigueur le dernier en date du jour de l'entrée en vigueur du paragraphe 4 (1) de la *Loi de 2010 sur les organisations sans but lucratif* et du jour de l'entrée en vigueur de l'article 1 de la loi énoncée à la présente annexe.

Titre abrégé

18 Le titre abrégé de la loi énoncée à la présente annexe est *Loi de 2017 sur le Centre d'assistance pour les appels en matière d'aménagement local*.

ANNEXE 3
MODIFICATIONS DE LA LOI SUR L'AMÉNAGEMENT DU TERRITOIRE, DE LA LOI DE 2006 SUR LA CITÉ DE TORONTO ET DE LA LOI DE 1994 SUR LA PLANIFICATION ET L'AMÉNAGEMENT DU TERRITOIRE DE L'ONTARIO

LOI SUR L'AMÉNAGEMENT DU TERRITOIRE

1 (1) Le paragraphe 1 (1) de la *Loi sur l'aménagement du territoire* est modifié par adjonction de la définition suivante :

«transport en commun d'un niveau supérieur» S'entend du transport en commun circulant en totalité ou en partie sur une emprise exclusive, et notamment du rail lourd, du rail léger et des autobus. («higher order transit»)

(2) La définition de «plan provincial» au paragraphe 1 (1) de la Loi est modifiée par adjonction des alinéas suivants :

- e.1) une politique désignée au sens de l'article 2 de la *Loi de 2008 sur la protection du lac Simcoe*;
- e.2) une politique désignée au sens de l'article 3 de la *Loi de 2015 sur la protection des Grands Lacs*;
- e.3) une politique des Grands Lacs désignée ou une politique sur les menaces importantes au sens que donne à ces termes le paragraphe 2 (1) de la *Loi de 2006 sur l'eau saine*;

2 (1) Le paragraphe 2.1 (1) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) par ce qui suit :

Prise en compte de certaines questions par les autorités approbatrices et le Tribunal

(1) Lorsqu'une autorité approbatrice prend une décision en vertu du paragraphe 17 (34), ou que le Tribunal prend une décision à l'égard d'un appel visé au paragraphe 17 (49.7) ou (53), 22 (11.3), 34 (26.8) ou (29), 38 (4) ou (4.1), 41 (12.0.1), 51 (39), (43) ou (48) ou 53 (19) ou (27), ils tiennent compte de ce qui suit :

(2) Le paragraphe 2.1 (2) de la Loi est abrogé et remplacé par ce qui suit :

Idem : Tribunal

(2) Lorsqu'il prend une décision à l'égard d'un appel visé au paragraphe 17 (40), 51 (34) ou 53 (14), le Tribunal tient compte des renseignements et documents que le conseil municipal ou l'autorité approbatrice a reçus relativement à la question.

3 L'article 3 de la Loi est modifié par adjonction des paragraphes suivants :

Approbation ministérielle

(1.1) Une déclaration de principes peut exiger l'approbation du ministre, d'un autre ministre de la Couronne ou de plusieurs ministres de la Couronne ou une décision de leur part relativement à l'une ou l'autre des questions que prévoit la déclaration.

Assimilation à des déclarations de principes

(8) Chacune des déclarations et politiques suivantes est réputée une déclaration de principes faite en vertu du paragraphe (1) :

- 1. Une déclaration de principes faite en vertu de l'article 31.1 de la *Loi de 2006 sur Metrolinx*.
- 2. Une déclaration de principes faite en vertu de l'article 11 de la *Loi de 2016 sur la récupération des ressources et l'économie circulaire*.
- 3. Une politique ou une déclaration qui est prescrite pour l'application du présent paragraphe.

Exceptions

(9) Les paragraphes (1.1), (2), (3) et (10) ne s'appliquent pas à une politique ou à une déclaration qui est réputée, en application du paragraphe (8), une déclaration de principes faite en vertu du paragraphe (1).

4 (1) Le paragraphe 8.1 (6) de la Loi est abrogé et remplacé par ce qui suit :

Pouvoir d'entendre les appels

(6) Le conseil peut, par règlement municipal, investir l'organisme d'appel local du pouvoir d'entendre des appels interjetés ou des motions pour obtenir des directives présentées, selon le cas, en vertu :

- a) soit des paragraphes 41 (4.2), (12) et (12.0.1);
- b) soit du paragraphe 45 (12);
- c) soit des paragraphes 53 (4.1), (14), (19) et (27);

d) soit des dispositions énumérées dans toute combinaison des alinéas a), b) et c).

Interprétation : appels

(6.1) Les règles suivantes s'appliquent si un règlement municipal a été adopté en vertu du paragraphe (6) pour investir l'organisme d'appel local du pouvoir d'entendre des motions pour obtenir des directives présentées en vertu du paragraphe 41 (4.2) ou 53 (4.1), ou des deux :

1. Les mentions d'un appel au présent article, sauf au paragraphe (10), s'interprètent comme incluant la mention d'une motion pour obtenir des directives présentée en vertu du paragraphe 41 (4.2) ou 53 (4.1), ou des deux, selon le cas.
2. La mention de l'appelant au paragraphe (9), s'interprète comme incluant la mention de la personne ou de l'organisme public qui présente une motion pour obtenir des directives en vertu du paragraphe 41 (4.2) ou 53 (4.1), ou des deux, selon le cas.

(2) Le paragraphe 8.1 (7) de la Loi est abrogé et remplacé par ce qui suit :

Effet du règlement municipal visé au par. (6)

(7) Si un règlement municipal a été adopté en vertu du paragraphe (6) :

- a) l'organisme d'appel local est investi des pouvoirs et des fonctions que les dispositions pertinentes de la présente loi attribuent au Tribunal;
- b) toute mention du Tribunal dans la présente loi, en ce qui a trait aux appels interjetés en vertu des dispositions pertinentes, vaut mention de l'organisme d'appel local;
- c) les appels interjetés en vertu des dispositions pertinentes le sont devant l'organisme d'appel local et non devant le Tribunal.

(3) Le paragraphe 8.1 (11) de la Loi est abrogé et remplacé par ce qui suit :

Exception

(11) Le paragraphe (10) ne s'applique pas à l'égard d'une motion pour obtenir des directives présentée en vertu du paragraphe 41 (4.2) ou 53 (4.1).

(4) Les alinéas 8.1 (13) a) et b) de la Loi sont abrogés et remplacés par ce qui suit :

- a) d'une part, à l'égard de la même question que celui interjeté en vertu d'une des dispositions énumérées au paragraphe (6);
- b) d'autre part, en vertu d'une autre disposition énumérée au paragraphe (6) à l'égard de laquelle l'organisme d'appel local n'a pas été investi de pouvoir en vertu de l'article 17, 22, 34, 36, 38 ou 51 ou relativement à un système de délivrance de permis d'exploitation.

(5) Le paragraphe 8.1 (16) de la Loi est modifié par remplacement de «qu'un avis d'appel est déposé à l'égard d'un appel connexe, la Commission des affaires municipales exerce» par «qu'un avis d'appel est déposé auprès du Tribunal à l'égard d'un appel connexe, le Tribunal exerce».

(6) Le paragraphe 8.1 (26) de la Loi est abrogé et remplacé par ce qui suit :

Disposition transitoire

(26) Le présent article ne s'applique pas à l'égard des appels suivants :

1. Un appel interjeté en vertu du paragraphe 45 (12), si la décision du comité à l'égard de laquelle l'avis d'appel est déposé est prise avant le jour de l'entrée en vigueur d'un règlement municipal adopté en vertu du paragraphe (6) du présent article par le conseil de la municipalité concernée qui investit l'organisme d'appel local du pouvoir d'entendre ce type d'appel.
2. Un appel interjeté en vertu du paragraphe 53 (19) ou (27), si l'avis visé au paragraphe 53 (17) ou (24), selon le cas, est donné avant le jour de l'entrée en vigueur d'un règlement municipal adopté en vertu du paragraphe (6) du présent article par le conseil de la municipalité concernée qui investit l'organisme d'appel local du pouvoir d'entendre ce type d'appels.
3. Un appel interjeté en vertu du paragraphe 41 (4.2), (12) ou (12.0.1) ou 53 (4.1) ou (14), si l'appel est interjeté avant le jour de l'entrée en vigueur d'un règlement municipal adopté en vertu du paragraphe (6) du présent article par le conseil de la municipalité concernée qui investit l'organisme d'appel local du pouvoir d'entendre ce type d'appel.

Règle déterminative : appels interjetés en vertu du par. 53 (4.1)

(27) Si, avant le jour de l'entrée en vigueur du paragraphe 4 (1) de l'annexe 3 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*, une municipalité adopte un règlement municipal en vertu du paragraphe (6) du présent article qui investit l'organisme d'appel local du pouvoir d'entendre des appels interjetés en vertu

des paragraphes 53 (14), (19) et (27), ce règlement est réputé investir l'organisme d'appel local du pouvoir d'entendre des appels interjetés en vertu du paragraphe 53 (4.1) ce jour-là ou par la suite.

5 (1) Le paragraphe 16 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

- a.1) toutes les politiques et mesures possibles pour assurer la mise en place adéquate de logements abordables;

(2) L'article 16 de la Loi est modifié par adjonction des paragraphes suivants :

Politiques relatives au changement climatique

(14) Le plan officiel doit contenir des politiques qui indiquent des buts, des objectifs et des mesures visant à atténuer les émissions de gaz à effet de serre et à prévoir l'adaptation au changement climatique, notamment par le renforcement de la résilience.

Zone protégée de grande station de transport en commun – municipalité à palier unique

(15) Le plan officiel d'une municipalité à palier unique peut contenir des politiques qui délimitent et désignent la zone comprenant et entourant une station ou un arrêt de transport en commun de niveau supérieur existant ou prévu comme zone protégée de grande station de transport en commun. Dans ce cas, il doit également contenir des politiques qui :

- a) précisent le nombre minimal de résidents et d'emplois combinés par hectare que la zone devrait pouvoir recevoir;
- b) précisent les utilisations autorisées à l'égard des terrains situés dans la zone de grande station de transport en commun et des bâtiments ou des constructions situés sur ceux-ci;
- c) précisent les densités minimales autorisées à l'égard des bâtiments et des constructions situés sur les terrains de la zone.

Idem : municipalité de palier supérieur

(16) Le plan officiel d'une municipalité de palier supérieur peut contenir des politiques qui délimitent et désignent la zone comprenant et entourant une station ou un arrêt de transport en commun de niveau supérieur existant ou prévu comme zone protégée de grande station de transport en commun. Auquel cas, il doit également contenir des politiques qui :

- a) précisent le nombre minimal de résidents et d'emplois combinés par hectare que la zone devrait pouvoir contenir;
- b) exigent que les plans officiels de la ou des municipalités de palier inférieur concernées contiennent des politiques qui, à la fois :
 - (i) précisent les utilisations autorisées à l'égard des terrains de la zone et des bâtiments ou des constructions situés sur ceux-ci;
 - (ii) précisent les densités minimales autorisées à l'égard des bâtiments et des constructions situés sur les terrains de la zone.

Absence de modification du plan officiel

(17) Si le plan officiel d'une municipalité de palier inférieur qui doit contenir les politiques visées aux sous-alinéas (16) b) (i) et (ii) n'est pas modifié pour inclure ces politiques comme l'exige le paragraphe 27 (1) dans un délai d'un an à partir du jour de l'entrée en vigueur des politiques désignant, conformément au paragraphe (16) du présent article, la zone protégée de grande station de transport en commun concernée, le paragraphe 27 (2) ne s'applique pas et, à la place, le conseil de la municipalité de palier supérieur modifie le plan officiel de la municipalité de palier inférieur de la même façon et selon les mêmes exigences et procédures que s'il s'agissait du conseil qui n'a pas effectué la modification dans le délai imparti d'un an.

Aucune exemption en vertu du par. 17 (9)

(18) L'arrêté pris en vertu du paragraphe 17 (9) ne s'applique pas à une modification apportée à un plan officiel si celle-ci fait l'une ou l'autre des choses suivantes :

1. Elle ajoute toutes les politiques visées au paragraphe (15) au plan officiel.
2. Dans le cas du plan officiel d'une municipalité de palier supérieur, elle ajoute toutes les politiques visées au paragraphe (16) au plan, sauf les politiques visées aux sous-alinéas (16) b) (i) et (ii).
3. Dans le cas du plan officiel d'une municipalité de palier inférieur, elle ajoute toutes les politiques visées aux sous-alinéas (16) b) (i) et (ii) au plan à l'égard d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe (16).
4. Elle modifie ou révoque une ou plusieurs des politiques visées au paragraphe (15) ou (16) à l'égard d'une zone protégée de grande station de transport en commun désignée conformément à l'un ou l'autre de ces paragraphes.

Non-application de l'autorisation visée au par. 17 (10)

(19) L'autorisation visée au paragraphe 17 (10) ne s'applique pas à la modification du plan officiel d'une municipalité de palier inférieur qui :

- a) soit, ajoute toutes les politiques visées aux sous-alinéas (16) b) (i) et (ii) au plan à l'égard d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe (16);
- b) soit, modifie ou révoque l'une ou l'autre des politiques visées aux sous-alinéas (16) b) (i) et (ii) à l'égard d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe (16).

6 (1) L'article 17 de la Loi est modifié par adjonction du paragraphe suivant :**Fondement de l'appel**

(24.0.1) Il ne peut être interjeté appel en vertu du paragraphe (24) que si la partie de la décision à laquelle se rapporte l'avis d'appel est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, qu'elle n'est pas conforme au plan officiel de la municipalité de palier supérieur.

(2) L'alinéa 17 (25) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) explique en quoi la partie de la décision à laquelle se rapporte l'avis est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, n'est pas conforme au plan officiel de la municipalité de palier supérieur;

(3) Le paragraphe 17 (25.1) de la Loi est abrogé.**(4) Le paragraphe 17 (27) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) par ce qui suit :****Décision définitive**

(27) Si au moins une personne ou un organisme public a le droit d'interjeter appel en vertu du paragraphe (24) à l'égard de la totalité ou d'une partie de la décision du conseil, mais qu'aucun avis d'appel n'est déposé en vertu de ce paragraphe et que le délai fixé pour le dépôt des appels est expiré :

(5) L'article 17 de la Loi est modifié par adjonction du paragraphe suivant :**Idem**

(27.1) Si aucune personne ni aucun organisme public n'a le droit d'interjeter appel en vertu du paragraphe (24) à l'égard de toute partie de la décision du conseil :

- a) la décision du conseil est définitive;
- b) le plan qui a été adopté entre en vigueur à titre de plan officiel le lendemain du jour de son adoption.

(6) Le paragraphe 17 (34.1) de la Loi est modifié par remplacement de «le 180^e jour» par «le 210^e jour» partout où figure cette expression.**(7) L'article 17 de la Loi est modifié par adjonction du paragraphe suivant :****Fondement de l'appel**

(36.0.1) Il ne peut être interjeté appel en vertu du paragraphe (36) que si la partie de la décision à laquelle se rapporte l'avis d'appel est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, qu'elle n'est pas conforme au plan officiel de la municipalité de palier supérieur.

(8) L'article 17 de la Loi est modifié par adjonction des paragraphes suivants :**Aucun appel : politiques relatives aux zones protégées de grande station de transport en commun**

(36.1.4) Malgré le paragraphe (36), il ne peut être interjeté appel à l'égard de ce qui suit :

1. Les politiques qui désignent une zone protégée de grande station de transport en commun conformément au paragraphe 16 (15) ou (16), y compris toute modification apportée à ces politiques.
2. Les politiques visées aux alinéas 16 (15) a), b) ou c) ou (16) a) ou b) à l'égard d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe 16 (15) ou (16).
3. Les politiques comprises dans le plan d'une municipalité de palier inférieur qui sont visées au sous-alinéa 16 (16) b) (i) ou (ii).

4. Les politiques qui précisent les densités maximales autorisées à l'égard des bâtiments et des constructions situés sur les terrains d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe 16 (15).
5. Les politiques qui précisent les densités maximales autorisées à l'égard des bâtiments et des constructions situés sur les terrains d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe 16 (16).
6. Les politiques qui précisent la hauteur minimale ou maximale autorisée à l'égard des bâtiments et des constructions situés sur les terrains d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe 16 (15).
7. Les politiques qui précisent la hauteur minimale ou maximale autorisée à l'égard des bâtiments et des constructions situés sur les terrains d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe 16 (16).

Restriction

(36.1.5) Les dispositions 3, 5 et 7 du paragraphe (36.1.4) ne s'appliquent que dans l'un ou l'autre des cas suivants :

- a) le plan qui inclut les politiques visées à ces paragraphes inclut également toutes les politiques visées aux sous-alinéas 16 (16) b) (i) et (ii) pour la zone protégée de grande station de transport en commun concernée;
- b) le plan officiel de la municipalité de palier inférieur en vigueur au moment pertinent contient toutes les politiques visées aux sous-alinéas 16 (16) b) (i) et (ii) pour la zone protégée de grande station de transport en commun concernée.

Exception

(36.1.6) Malgré les dispositions 6 et 7 du paragraphe (36.1.4), il peut être interjeté appel dans les cas où la hauteur maximale autorisée à l'égard d'un bâtiment ou d'une construction situé sur une parcelle de terrain particulière entraînerait le non-respect par le bâtiment ou la construction de la densité minimale autorisée à l'égard de cette parcelle.

Exception : ministre

(36.1.7) Le paragraphe (36.1.4) ne s'applique pas à un appel interjeté par le ministre.

(9) Le paragraphe 17 (36.2) de la Loi est modifié par remplacement de «dans le cas d'un nouveau plan officiel, il ne peut pas être interjeté appel» par «dans le cas d'un nouveau plan officiel approuvé par une autorité approbatrice autre que le ministre, il ne peut pas être interjeté appel».

(10) L'article 17 de la Loi est modifié par adjonction du paragraphe suivant :

Aucun appel : décision du ministre

(36.5) Malgré le paragraphe (36), il ne peut être interjeté appel à l'égard d'une décision de l'autorité approbatrice prise en vertu du paragraphe (34) si l'autorité approbatrice est le ministre.

(11) L'alinéa 17 (37) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) explique en quoi la partie de la décision à laquelle se rapporte l'avis est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, n'est pas conforme au plan officiel de la municipalité de palier supérieur;

(12) Le paragraphe 17 (37.1) de la Loi est abrogé.

(13) Le paragraphe 17 (38) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) par ce qui suit :

Décision définitive

(38) Si au moins une personne ou un organisme public a le droit d'interjeter appel en vertu du paragraphe (36) à l'égard de la totalité ou d'une partie de la décision de l'autorité approbatrice, mais qu'aucun avis d'appel n'est déposé en vertu de ce paragraphe et que le délai fixé pour le dépôt des appels est expiré :

(14) L'article 17 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(38.1) Si aucune personne ni aucun organisme public n'a le droit d'interjeter appel en vertu du paragraphe (36) à l'égard de toute partie de la décision de l'autorité approbatrice :

- a) d'une part, la décision de l'autorité approbatrice est définitive;
- b) d'autre part, le plan ou la partie du plan qui a été approuvé entre en vigueur à titre de plan officiel ou de partie de plan officiel le jour de son approbation.

(15) Le paragraphe 17 (40) de la Loi est modifié :

a) par remplacement de «dans les 180 jours» par «dans les 210 jours»;

b) par remplacement de «toute personne ou tout organisme public peut interjeter un appel devant la Commission des affaires municipales» par «toute personne ou tout organisme public peut interjeter un appel devant le Tribunal».

(16) Le paragraphe 17 (40.1) de la Loi est modifié par remplacement de «délai de 180 jours» par «délai de 210 jours» partout où figure cette expression.

(17) Le paragraphe 17 (40.2) de la Loi est modifié :

a) par remplacement de «les 180 jours» par «les 210 jours» dans le passage qui précède l'alinéa a);

b) par remplacement de «le 180^e jour» par «le 210^e jour» partout où figure cette expression.

(18) Le paragraphe 17 (40.4) de la Loi est modifié par remplacement de «le délai de 180 jours» par «le délai de 210 jours».

(19) Les paragraphes 17 (44.3) à (44.6) de la Loi sont abrogés.

(20) Le paragraphe 17 (44.7) de la Loi est modifié par remplacement de «Les paragraphes (44.1) à (44.6)» par «Les paragraphes (44.1) et (44.2)» au début du paragraphe.

(21) Le paragraphe 17 (45) de la Loi est abrogé et remplacé par ce qui suit :

Rejet sans audience

(45) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (44), le Tribunal rejette la totalité ou une partie d'un appel sans tenir d'audience, de sa propre initiative ou sur motion d'une partie, dans l'un ou l'autre des cas suivants :

1. Le Tribunal est d'avis que, selon le cas :

i. l'explication exigée par l'alinéa (25) b) ou (37) b), selon le cas, ne démontre pas que la partie de la décision à laquelle se rapporte l'avis d'appel est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, qu'elle n'est pas conforme au plan officiel de la municipalité de palier supérieur,

ii. l'appel n'est pas interjeté de bonne foi ou il est frivole ou vexatoire,

iii. l'appel est interjeté uniquement pour retarder la procédure,

iv. l'appelant a de façon persistante et sans motifs raisonnables introduit devant le Tribunal des instances qui constituent un abus de procédure;

2. L'appelant n'a pas fourni les explications exigées par l'alinéa (25) b) ou (37) b), selon le cas;

3. L'appelant n'a pas acquitté les droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et n'a pas acquitté les droits demandés par le Tribunal dans le délai qu'il a précisé;

4. L'appelant n'a pas fourni au Tribunal les renseignements supplémentaires qu'il a demandés dans le délai qu'il a précisé.

(22) Le paragraphe 17 (46) de la Loi est modifié :

a) par remplacement de «Avant de rejeter la totalité ou une partie d'un appel, la Commission des affaires municipales» par «Avant de rejeter la totalité ou une partie d'un appel, le Tribunal» au début du paragraphe;

b) par remplacement de «à l'alinéa (45) e)» par «à la disposition 3 ou 4 du paragraphe (45)» à la fin du paragraphe.

(23) Le paragraphe 17 (49) de la Loi est abrogé et remplacé par ce qui suit :

Transfert

(49) S'il reçoit un avis d'appel visé au paragraphe (40), le Tribunal peut exiger qu'une municipalité ou une autorité approbatrice lui transfère toute autre partie du plan qui n'est pas en vigueur et à laquelle l'avis d'appel ne s'applique pas.

(24) L'article 17 de la Loi est modifié par adjonction des paragraphes suivants :

Pouvoirs du T.A.A.L. — appels interjetés en vertu des par. (24) et (36)

(49.1) Sous réserve des paragraphes (49.3) à (49.9), après avoir tenu une audience sur un appel interjeté en vertu du paragraphe (24) ou (36), le Tribunal le rejette.

Idem

(49.2) S'il rejette tous les appels interjetés en vertu du paragraphe (24) ou (36) à l'égard de la totalité ou d'une partie d'une décision après avoir tenu une audience, le Tribunal en avise le secrétaire de la municipalité ou l'autorité approbatrice et :

- a) d'une part, la décision ou la partie de celle-ci qui a fait l'objet de l'appel est définitive;
- b) d'autre part, le plan ou la partie du plan qui a été adopté ou approuvé et à l'égard duquel tous les appels ont été rejetés entre en vigueur à titre de plan officiel ou de partie de plan officiel le lendemain du jour où le dernier appel en suspens a été rejeté.

Refus et avis pour prendre une nouvelle décision

(49.3) Sauf si le paragraphe (49.4), (49.7) ou (49.8) s'applique, si le Tribunal détermine qu'une partie d'une décision à laquelle se rapporte un avis d'appel visé au paragraphe (24) ou (36) est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, qu'elle n'est pas conforme au plan officiel de la municipalité de palier supérieur :

- a) d'une part, le Tribunal refuse d'approuver cette partie du plan;
- b) d'autre part, le Tribunal avise le secrétaire de la municipalité qui a adopté le plan officiel qu'il est donné à la municipalité l'occasion de prendre une nouvelle décision à l'égard de la question.

Plan révisé avec le consentement des parties

(49.4) Sauf si le paragraphe (49.8) s'applique, si un plan révisé est présenté au Tribunal avec le consentement de toutes les parties précisées au paragraphe (49.11), le Tribunal l'approuve à titre de plan officiel à l'exception de toute partie de celui-ci qui est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qui n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, qui n'est pas conforme au plan officiel de la municipalité de palier supérieur.

Idem : avis pour prendre une nouvelle décision

(49.5) Si le paragraphe (49.4) s'applique et que le Tribunal détermine que toute partie du plan révisé est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, qu'elle n'est pas conforme au plan officiel de la municipalité de palier supérieur :

- a) d'une part, le Tribunal refuse d'approuver cette partie du plan;
- b) d'autre part, le Tribunal avise le secrétaire de la municipalité qui a adopté le plan officiel qu'il est donné à la municipalité l'occasion de prendre une nouvelle décision à l'égard de la question.

Règles applicables si un avis est reçu

(49.6) Si le secrétaire a reçu l'avis visé à l'alinéa (49.3) b) ou (49.5) b), les règles suivantes s'appliquent :

1. Le conseil de la municipalité peut préparer et adopter un autre plan, sous réserve de ce qui suit :
 - i. Les paragraphes (16) et (17.1) ne s'appliquent pas.
 - ii. Si le plan n'est pas soustrait à l'exigence voulant qu'il soit approuvé :
 - A. la mention de «dans les 210 jours» au paragraphe (40) vaut mention de «dans les 90 jours»,
 - B. le paragraphe (40.1) ne s'applique pas,
 - C. les mentions de «les 210 jours» et de «le 210^e jour» au paragraphe (40.2) valent mention de «les 90 jours» et de «le 90^e jour», respectivement,
 - D. la mention de «le délai de 210 jours» au paragraphe (40.4) vaut mention de «le délai de 90 jours».
2. Si la décision qui faisait l'objet de l'appel était à l'égard d'une modification adoptée en réponse à la demande visée au paragraphe 22 (1) ou (2), les mentions de «dans les 210 jours qui suivent le jour de la réception de la demande» aux dispositions 1 et 2 du paragraphe 22 (7.0.2) valent mention de «dans les 90 jours qui suivent le jour de la réception de l'avis visé à l'alinéa (49.3) b) ou (49.5) b)».

Deuxième appel

(49.7) Sauf si le paragraphe (49.8) s'applique, lors d'un appel interjeté en vertu du paragraphe (24) ou (36) concernant une nouvelle décision prise par la municipalité après qu'il lui a été donné l'occasion de le faire conformément au paragraphe (49.6) ou 22 (11.0.12), le Tribunal peut modifier la totalité ou une partie du plan et l'approuver telle qu'elle est modifiée à titre de plan officiel, ou refuser d'approuver la totalité ou une partie du plan, s'il détermine que la décision est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est

incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, qu'elle n'est pas conforme au plan officiel de la municipalité de palier supérieur.

Idem : plan révisé avec le consentement des parties

(49.8) Si, lors d'un appel interjeté en vertu du paragraphe (24) ou (36) concernant une nouvelle décision prise par la municipalité après qu'il lui a été donné l'occasion de le faire conformément au paragraphe (49.6) ou 22 (11.0.12), un plan révisé est présenté au Tribunal avec le consentement de toutes les parties précisées au paragraphe (49.11), le Tribunal l'approuve à titre de plan officiel à l'exception de toute partie de celui-ci qui est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qui n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, qui n'est pas conforme au plan officiel de la municipalité de palier supérieur.

Idem

(49.9) Si le paragraphe (49.8) s'applique et que le Tribunal détermine que toute partie du plan révisé est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, qu'elle n'est pas conforme au plan officiel de la municipalité de palier supérieur, le Tribunal peut modifier cette partie du plan révisé et l'approuver telle qu'elle est modifiée à titre de partie de plan officiel ou refuser d'approuver la totalité ou une partie de cette partie du plan révisé.

Entrée en vigueur du plan

(49.10) Si le Tribunal approuve la totalité ou une partie d'un plan révisé à titre de plan officiel ou de partie de plan officiel en application du paragraphe (49.4) ou (49.8), le plan ou la partie du plan qui est approuvé entre en vigueur à titre de plan officiel ou de partie de plan officiel le lendemain du jour de son approbation.

Parties précisées

(49.11) Pour l'application des paragraphes (49.4) et (49.8), les parties précisées sont les suivantes :

1. La municipalité qui a adopté le plan.
2. L'autorité approbatrice compétente, si elle est partie.
3. Le ministre, s'il est partie.
4. La personne ou l'organisme public qui a demandé qu'une modification soit apportée au plan officiel, le cas échéant.
5. Tous les appelants de la décision qui faisait l'objet de l'appel.

Effet sur le plan initial

(49.12) Si le paragraphe (49.4) ou (49.8) s'applique, la version du plan qui faisait l'objet de l'avis d'appel est réputée avoir été refusée.

(25) Le paragraphe 17 (50) de la Loi est modifié par remplacement de «Lors d'un appel ou d'un transfert, la Commission des affaires municipales peut» par «Lors d'un appel interjeté en vertu du paragraphe (40) ou lors d'un transfert, le Tribunal peut» au début du paragraphe.

(26) Les paragraphes 17 (50.1) et (51) de la Loi sont abrogés et remplacés par ce qui suit :

Idem

(50.1) Il est entendu que les paragraphes (49.7), (49.9) et (50) n'ont pas pour effet de conférer au Tribunal le pouvoir d'approuver ou de modifier une partie quelconque du plan :

- a) d'une part, qui est en vigueur;
- b) d'autre part, qui n'a pas été ajoutée, modifiée ou révoquée par le plan auquel se rapporte l'avis d'appel.

Questions d'intérêt provincial

(51) Si un appel est interjeté devant le Tribunal en vertu du présent article, le ministre peut, s'il estime que le plan ou les parties du plan qui font l'objet de l'appel portent ou porteront vraisemblablement atteinte à une question d'intérêt provincial, en aviser le Tribunal par écrit au plus tard 30 jours après le jour où ce dernier donne l'avis qu'exige le paragraphe (44). Le ministre précise alors :

- a) les dispositions du plan qui portent ou porteront vraisemblablement atteinte à l'intérêt provincial;
- b) ce sur quoi il se fonde généralement pour estimer qu'il est ou sera vraisemblablement porté atteinte à une question d'intérêt provincial.

(27) Le paragraphe 17 (53) de la Loi est abrogé et remplacé par ce qui suit :

Règles applicables si l'avis visé au par. (51) est reçu

(53) Si le Tribunal reçoit un avis du ministre en vertu du paragraphe (51), les règles suivantes s'appliquent :

1. Les paragraphes (49.1) à (50) ne s'appliquent pas à l'appel.
2. Le Tribunal peut approuver la totalité ou une partie du plan à titre de plan officiel, modifier la totalité ou une partie du plan et l'approuver telle qu'elle est modifiée à titre de plan officiel ou refuser d'approuver la totalité ou une partie du plan.
3. La décision du Tribunal n'est pas définitive à l'égard des dispositions précisées dans l'avis, sauf si le lieutenant-gouverneur en conseil confirme la décision à leur égard.

7 L'article 21 de la Loi est modifié par adjonction du paragraphe suivant :**Exception**

(3) Le paragraphe 17 (36.5) ne s'applique à une modification que s'il s'agit d'une révision qui a été adoptée conformément à l'article 26.

8 (1) L'article 22 de la Loi est modifié par adjonction des paragraphes suivants :**Idem : plans secondaires**

(2.1.1) Aucune personne ni aucun organisme public ne doit demander qu'une modification soit apportée à un plan secondaire avant le deuxième anniversaire du premier jour de l'entrée en vigueur de toute partie du plan.

Interprétation : plan secondaire

(2.1.2) Pour l'application du paragraphe (2.1.1), un plan secondaire est une partie d'un plan officiel, ajoutée par voie de modification, qui contient des politiques et des désignations d'utilisation du sol qui s'appliquent à plusieurs parcelles de terrain contiguës, mais non à une municipalité entière. Il fournit, à l'égard de ces parcelles, des directives en matière de politiques plus détaillées que celles fournies dans le plan officiel avant sa modification.

Aucune demande de modification : politiques relatives aux zones protégées de grande station de transport en commun

(2.1.3) Si une zone protégée de grande station de transport en commun est désignée dans un plan officiel conformément au paragraphe 16 (15) ou (16), aucune personne ni aucun organisme public ne doit demander qu'une modification soit apportée à l'égard de l'une ou l'autre des politiques visées à ces paragraphes qui concernent cette zone, et notamment à l'égard des politiques visées aux sous-alinéas 16 (16) b) (i) et (ii) que contient le plan officiel d'une municipalité de palier inférieur.

(2) Le paragraphe 22 (2.2) de la Loi est abrogé et remplacé par ce qui suit :**Exception**

(2.2) Si le conseil a déclaré, par résolution pouvant être adoptée à l'égard d'une demande précise, d'une catégorie de demandes ou à l'égard de ces demandes en général, qu'une demande visée au paragraphe (2.1), (2.1.1) ou (2.1.3) est permise, le paragraphe pertinent ne s'applique pas.

(3) L'article 22 de la Loi est modifié par adjonction du paragraphe suivant :**Fondement de l'appel**

(7.0.0.1) Un appel ne peut être interjeté en vertu du paragraphe (7) que s'il se fonde sur ce qui suit :

- a) la ou les parties existantes du plan officiel auxquelles la modification demandée porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, ne sont pas conformes au plan officiel de la municipalité de palier supérieur;
- b) la modification demandée est compatible avec les déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et, dans le cas d'une demande de modification du plan officiel d'une municipalité de palier inférieur, elle est conforme au plan officiel de la municipalité de palier supérieur.

Exception

(7.0.0.2) Le paragraphe (7.0.0.1) et les alinéas (8) a.1) et a.2) ne s'appliquent pas aux appels visés au paragraphe (7) qui sont interjetés conformément à la disposition 1 ou 2 du paragraphe (7.0.2) et qui concernent une demande à l'égard de laquelle il a été donné à la municipalité ou au conseil d'aménagement l'occasion de prendre une nouvelle décision conformément au paragraphe (11.0.12) ou au paragraphe 17 (49.6).

(4) Le paragraphe 22 (7.0.2) de la Loi est modifié par remplacement de «des 180 jours» par «des 210 jours» partout où figure cette expression.

(5) L'article 22 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(7.0.2.1) Il est entendu qu'il n'est pas satisfait à une condition énoncée au paragraphe (7.0.2) si le conseil ou le conseil d'aménagement adopte une modification en réponse à une demande visée au paragraphe (1) ou (2), et ce même si la modification adoptée diffère de la modification demandée.

(6) Le paragraphe 22 (8) de la Loi est abrogé et remplacé par ce qui suit :**Teneur**

(8) L'avis d'appel visé au paragraphe (7) :

- a) énonce la partie précise de la modification qu'il est demandé d'apporter au plan officiel à laquelle l'appel s'applique, si l'avis d'appel ne s'applique pas à la totalité de la modification demandée;
- a.1) explique en quoi la ou les parties existantes du plan officiel auxquelles la modification demandée porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, ne sont pas conformes au plan officiel de la municipalité de palier supérieur;
- a.2) explique en quoi la modification demandée est compatible avec les déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et, dans le cas d'une modification demandée au plan officiel d'une municipalité de palier inférieur, est conforme au plan officiel de la municipalité de palier supérieur;
- b) est accompagné des droits prescrits aux termes de la *Loi sur la Commission des affaires municipales de l'Ontario*.

(7) Le paragraphe 22 (11) de la Loi est abrogé et remplacé par ce qui suit :**Audience**

(11) Le Tribunal saisi d'un appel tient une audience et en avise, de la façon qu'il décide, les personnes ou organismes publics qu'il détermine.

Restriction : jonction de parties

(11.0.1) Malgré le paragraphe (11), seules les personnes ou entités suivantes peuvent être jointes en tant que parties dans le cas d'un appel prévu au paragraphe (7) interjeté conformément à la disposition 3 ou 4 du paragraphe (7.0.2) :

1. La personne ou l'organisme public qui satisfait à une des conditions énoncées au paragraphe (11.0.2).
2. Le ministre.
3. L'autorité approbatrice compétente.

Idem

(11.0.2) Les conditions visées à la disposition 1 du paragraphe (11.0.1) sont les suivantes :

1. Avant le refus de la demande de modification, la personne ou l'organisme public a présenté des observations orales lors d'une réunion publique ou présenté des observations écrites au conseil ou au conseil d'aménagement.
2. Le Tribunal est d'avis qu'il existe des motifs raisonnables de joindre la personne ou l'organisme public en tant que partie.

Incompatibilité avec la *Loi sur l'exercice des compétences légales*

(11.0.3) Les paragraphes (11.0.1) et (11.0.2) s'appliquent malgré la *Loi sur l'exercice des compétences légales*.

Rejet sans audience

(11.0.4) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (11), le Tribunal peut rejeter la totalité ou une partie d'un appel sans tenir d'audience, de sa propre initiative ou sur motion d'une partie, dans l'un ou l'autre des cas suivants :

1. Le Tribunal est d'avis que les explications exigées par les alinéas (8) a.1) et a.2) ne démontrent pas ce qui suit :
 - i. La ou les parties existantes du plan officiel auxquelles la modification demandée porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, ne sont pas conformes au plan officiel de la municipalité de palier supérieur.
 - ii. La modification demandée est compatible aux déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et, dans le cas dans le cas d'une modification demandée au plan officiel d'une municipalité de palier inférieur, est conforme au plan officiel de la municipalité de palier supérieur.

2. Le Tribunal est d'avis que, selon le cas :

- i. l'appel n'est pas interjeté de bonne foi ou il est frivole ou vexatoire,
 - ii. l'appel est interjeté uniquement en vue de retarder la procédure,
 - iii. l'appelant a de façon persistante et sans motifs raisonnables introduit devant le Tribunal des instances qui constituent un abus de procédure.
3. L'appelant n'a pas fourni les explications exigées par les alinéas (8) a.1) et a.2).
4. L'appelant n'a pas acquitté les droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et n'a pas acquitté les droits demandés par le Tribunal dans le délai qu'il a précisé.
5. L'appelant n'a pas fourni au Tribunal les renseignements supplémentaires que celui-ci a demandés dans le délai qu'il a précisé.

Idem

(11.0.5) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (11), le Tribunal peut, de sa propre initiative ou sur motion de la municipalité, du conseil d'aménagement, de l'autorité approbatrice compétente ou du ministre, rejeter la totalité ou une partie d'un appel sans tenir d'audience s'il est d'avis que la demande à laquelle se rapporte l'appel est considérablement différente de celle dont le conseil ou le conseil d'aménagement était saisi au moment où il a pris sa décision.

Observations

(11.0.6) Avant de rejeter la totalité ou une partie d'un appel, le Tribunal en avise l'appelant et lui offre l'occasion de présenter des observations concernant le rejet envisagé. Toutefois, le présent paragraphe ne s'applique pas si l'appelant ne s'est pas conformé à une demande visée à la disposition 4 ou 5 du paragraphe (11.0.4).

Rejet

(11.0.7) Malgré la *Loi sur l'exercice des compétences légales*, le Tribunal peut rejeter la totalité ou une partie d'un appel après avoir tenu une audience portant sur la motion visée au paragraphe (11.0.4) ou (11.0.5), selon ce qu'il juge approprié.

Pouvoirs du T.A.A.L. — appels interjetés en vertu du par. (7)

(11.0.8) Sous réserve des paragraphes (11.0.9) à (11.0.17), après avoir tenu une audience sur un appel interjeté en vertu du paragraphe (7), le Tribunal le rejette.

Avis : occasion de prendre une nouvelle décision

(11.0.9) Sauf si le paragraphe (11.0.10) ou (11.0.13) s'applique, lors d'un appel interjeté en vertu du paragraphe (7), le Tribunal avise le secrétaire de la municipalité ou le secrétaire-trésorier du conseil d'aménagement, selon le cas, qui a reçu la demande de modification d'un plan officiel qu'il est donné à la municipalité ou au conseil d'aménagement l'occasion de prendre une nouvelle décision à l'égard de la question, s'il détermine ce qui suit :

- a) la ou les parties existantes du plan officiel auxquelles la modification demandée porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, ne sont pas conformes au plan officiel de la municipalité de palier supérieur;
- b) la modification demandée est compatible avec les déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et, dans le cas d'une demande de modification du plan officiel d'une municipalité de palier inférieur, elle est conforme au plan officiel de la municipalité de palier supérieur.

Modification révisée avec le consentement des parties

(11.0.10) Sauf si le paragraphe (11.0.16) s'applique, si une modification révisée est présentée au Tribunal avec le consentement de toutes les parties précisées au paragraphe (11.0.19), le Tribunal l'approuve à titre de modification d'un plan officiel à l'exception de toute partie de celle-ci qui est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qui n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas d'une modification du plan officiel d'une municipalité de palier inférieur, qui n'est pas conforme au plan officiel de la municipalité de palier supérieur.

Idem : avis pour prendre une nouvelle décision

(11.0.11) Si le paragraphe (11.0.10) s'applique et que le Tribunal détermine que toute partie de la modification révisée est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas de la modification du plan officiel d'une municipalité de palier inférieur, qu'elle n'est pas conforme au plan officiel de la municipalité de palier supérieur, le Tribunal avise le secrétaire de la municipalité ou le secrétaire-trésorier du conseil d'aménagement, selon le cas, qui a reçu la demande de

modification d'un plan officiel qu'il est donné à la municipalité ou au conseil d'aménagement l'occasion de prendre une nouvelle décision à l'égard de la question.

Règles applicables si un avis est reçu

(11.0.12) Si le secrétaire ou le secrétaire-trésorier reçoit l'avis visé au paragraphe (11.0.9) ou (11.0.11), les règles suivantes s'appliquent :

1. Le conseil de la municipalité ou le conseil d'aménagement peut préparer et adopter une modification, sous réserve de ce qui suit :
 - i. Les paragraphes 17 (16) et (17.1) ne s'appliquent pas.
 - ii. Si la modification n'est pas soustraite à l'exigence voulant qu'elle soit approuvée :
 - A. la mention de «dans les 210 jours» au paragraphe 17 (40) vaut mention de «dans les 90 jours»,
 - B. le paragraphe 17 (40.1) ne s'applique pas.
2. Les mentions de «dans les 210 jours qui suivent le jour de la réception de la demande» aux dispositions 1 et 2 du paragraphe (7.0.2) valent mention de «dans les 90 jours qui suivent le jour de la réception de l'avis visé au paragraphe (11.0.9) ou (11.0.11)».

Deuxième appel

(11.0.13) Les paragraphes (11.0.14) à (11.0.16) s'appliquent à l'égard d'un appel interjeté en vertu du paragraphe (7) concernant une demande à l'égard de laquelle il est donné à la municipalité ou au conseil d'aménagement l'occasion de prendre une nouvelle décision conformément au paragraphe (11.0.12) ou au paragraphe 17 (49.6).

Idem

(11.0.14) Dans le cas d'un appel interjeté conformément à la disposition 1 ou 2 du paragraphe (7.0.2), le Tribunal peut approuver la totalité ou une partie de la modification demandée à titre de modification d'un plan officiel, modifier la totalité ou une partie de la modification demandée et l'approuver telle qu'elle est modifiée à titre de modification d'un plan officiel, ou refuser d'approuver la totalité ou une partie de celle-ci.

Idem

(11.0.15) Sauf si le paragraphe (11.0.16) s'applique, dans le cas d'un appel interjeté conformément à la disposition 3 ou 4 du paragraphe (7.0.2), le Tribunal peut approuver la totalité ou une partie d'une modification demandée à titre de modification d'un plan officiel, modifier la totalité ou une partie de la modification demandée et l'approuver telle qu'elle est modifiée à titre de modification d'un plan officiel, ou refuser d'approuver la totalité ou une partie de celle-ci, s'il détermine ce qui suit :

- a) la ou les parties existantes du plan officiel auxquelles la modification demandée porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou, dans le cas du plan officiel d'une municipalité de palier inférieur, ne sont pas conformes au plan officiel de la municipalité de palier supérieur;
- b) la modification demandée est compatible avec les déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et, dans le cas d'une demande de modification du plan officiel d'une municipalité de palier inférieur, elle est conforme au plan officiel de la municipalité de palier supérieur.

Idem : modification révisée avec le consentement des parties

(11.0.16) Si, lors d'un appel interjeté conformément à la disposition 3 ou 4 du paragraphe (7.0.2), une modification révisée est présentée au Tribunal avec le consentement de toutes les parties précisées au paragraphe (11.0.19), le Tribunal l'approuve à titre de modification d'un plan officiel à l'exception de toute partie de celle-ci qui est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qui n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas d'une modification du plan officiel d'une municipalité de palier inférieur, qui n'est pas conforme au plan officiel de la municipalité de palier supérieur.

Idem

(11.0.17) Si le paragraphe (11.0.16) s'applique et que le Tribunal détermine que toute partie de la modification révisée est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou, dans le cas d'une modification du plan officiel d'une municipalité de palier inférieur, qu'elle n'est pas conforme au plan officiel de la municipalité de palier supérieur, le Tribunal peut modifier cette partie de la modification révisée et l'approuver telle qu'elle est modifiée à titre de partie d'une modification d'un plan officiel, ou refuser d'approuver la totalité ou une partie de celle-ci.

Entrée en vigueur

(11.0.18) Si le Tribunal approuve la totalité ou une partie d'une modification révisée à titre de modification d'un plan officiel ou de partie d'une modification de plan officiel en application du paragraphe (11.0.10) ou (11.0.16), la modification ou la partie de la modification qui est approuvée entre en vigueur à titre de modification d'un plan officiel ou de partie d'une modification d'un plan officiel le lendemain du jour de son approbation.

Parties précisées

(11.0.19) Pour l'application des paragraphes (11.0.10) et (11.0.16), les parties précisées sont les suivantes :

1. La municipalité ou le conseil d'aménagement qui a reçu la demande de modification d'un plan officiel.
2. L'autorité approbatrice compétente, si elle est partie.
3. Le ministre, s'il est partie.
4. La personne ou l'organisme public qui a demandé qu'une modification soit apportée au plan officiel.

(8) Le paragraphe 22 (11.1) est abrogé et remplacé par ce qui suit :

Questions d'intérêt provincial

(11.1) Lors d'un appel interjeté devant le Tribunal en vertu du présent article, le ministre peut, s'il estime que la modification ou une partie de la modification qui fait l'objet de l'appel porte ou portera vraisemblablement atteinte à une question d'intérêt provincial, en aviser le Tribunal par écrit au plus tard 30 jours après le jour où ce dernier donne l'avis qu'exige le paragraphe (11). Le ministre précise alors :

- a) les dispositions de la modification ou de la partie de celle-ci qui portent ou porteront vraisemblablement atteinte à l'intérêt provincial;
- b) ce sur quoi il se fonde généralement pour estimer qu'il est ou sera vraisemblablement porté atteinte à une question d'intérêt provincial.

(9) Le paragraphe 22 (11.3) de la Loi est abrogé et remplacé par ce qui suit :

Règles applicables si l'avis visé au par. (11.1) est reçu

(11.3) Si le Tribunal reçoit un avis du ministre en vertu du paragraphe (11.1), les règles suivantes s'appliquent :

1. Les paragraphes (11.0.8) à (11.0.19) ne s'appliquent pas à l'appel.
2. Le Tribunal peut approuver la totalité ou une partie d'une modification demandée à titre de modification d'un plan officiel, modifier la totalité ou une partie de la modification demandée et l'approuver telle qu'elle est modifiée à titre de modification d'un plan officiel ou refuser d'approuver la totalité ou une partie de la modification demandée.
3. La décision du Tribunal n'est pas définitive à l'égard des dispositions de la modification ou d'une partie de celle-ci précisées dans l'avis, sauf si le lieutenant-gouverneur en conseil confirme la décision à leur égard.

9 Le paragraphe 28 (5) de la Loi est modifié par remplacement de «et (49) à (50.1) s'appliquent» par «, (49), (50) et (50.1), tels qu'ils existaient la veille de l'entrée en vigueur de l'article 9 de l'annexe 3 de la Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques, s'appliquent».

10 (1) Le paragraphe 34 (11) de la Loi est abrogé et remplacé par ce qui suit :

Appel devant le T.A.A.L.

(11) Sous réserve du paragraphe (11.0.0.1), si une demande de modification d'un règlement municipal adopté en application du présent article ou d'un article qu'il remplace est refusée ou que le conseil omet de prendre une décision à son sujet dans les 150 jours de la réception de la demande par le secrétaire de la municipalité, n'importe laquelle des personnes ou entités suivantes peut interjeter appel devant le Tribunal en déposant un avis d'appel auprès du secrétaire, accompagné des droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* :

1. L'auteur de la demande.
2. Le ministre.

Idem : cas où la modification d'un plan officiel est exigée

(11.0.0.1) Si une modification apportée à un règlement municipal adopté en vertu du présent article ou d'un article qu'il remplace à l'égard de laquelle une demande est présentée au conseil exigerait également la modification du plan officiel de la municipalité locale et que la demande est présentée le même jour que la demande de modification du plan officiel, il ne peut être interjeté appel devant le Tribunal en vertu du paragraphe (11) que si la demande est refusée ou que le conseil omet de prendre une décision à son sujet dans les 210 jours de la réception de la demande par le secrétaire.

Fondement de l'appel

(11.0.0.2) Un appel ne peut être interjeté en vertu du paragraphe (11) que s'il se fonde sur ce qui suit :

- a) la ou les parties existantes du règlement municipal auxquelles la modification qui fait l'objet de la demande porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou ne sont pas conformes à un plan officiel applicable;
- b) la modification qui fait l'objet de la demande est compatible aux déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et est conforme aux plans officiels applicables.

Idem

(11.0.0.0.3) Il est entendu que le conseil ne refuse pas une demande de modification d'un règlement municipal adopté en vertu du présent article ou d'un article qu'il remplace ou n'omet pas de prendre une décision à son sujet si elle modifie le règlement municipal en réponse à la demande, et ce même si la modification adoptée diffère de celle qui fait l'objet de la demande.

Avis d'appel

(11.0.0.0.4) L'avis d'appel visé au paragraphe (11) fait ce qui suit :

- a) il explique en quoi la ou les parties existantes du règlement municipal auxquelles la modification qui fait l'objet de la demande porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou ne sont pas conformes à un plan officiel applicable;
- b) il explique en quoi la modification qui fait l'objet de la demande est compatible aux déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et est conforme aux plans officiels applicables.

Exception

(11.0.0.0.5) Les paragraphes (11.0.0.0.2) et (11.0.0.0.4) ne s'appliquent pas aux appels visés au paragraphe (11) concernant le défaut de prendre une décision au sujet d'une demande à l'égard de laquelle il a été donné à la municipalité l'occasion de prendre une nouvelle décision conformément au paragraphe (26.3).

(2) Le paragraphe 34 (11.0.2) de la Loi est abrogé.

(3) Le paragraphe 34 (12) de la Loi est modifié par remplacement de «une ordonnance rendue par la Commission des affaires municipales en vertu du paragraphe (11.0.2) ou (26)» par «une ordonnance rendue par le Tribunal en vertu du paragraphe (26)» à la fin du passage qui précède l'alinéa a).

(4) Le paragraphe 34 (19) de la Loi est modifié par remplacement du passage qui précède la disposition 1 par ce qui suit :

Appel devant le T.A.A.L.

(19) N'importe laquelle des personnes ou entités suivantes peut, au plus tard 20 jours après le jour où l'avis visé au paragraphe (18) est donné, interjeter appel devant le Tribunal en déposant auprès du secrétaire de la municipalité un avis d'appel accompagné des droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* :

(5) Le paragraphe 34 (19.0.1) de la Loi est abrogé et remplacé par ce qui suit :

Fondement de l'appel

(19.0.1) Il ne peut être interjeté appel en vertu du paragraphe (19) que si le règlement municipal est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'il n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou qu'il n'est pas conforme à un plan officiel applicable.

Avis d'appel

(19.0.2) L'avis d'appel visé au paragraphe (19) explique en quoi le règlement municipal est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou n'est pas conforme à un plan officiel applicable.

(6) Le paragraphe 34 (19.3.1) de la Loi est modifié par remplacement de «au paragraphe 34 (1)» par «au paragraphe (1)».

(7) L'article 34 de la Loi est modifié par adjonction des paragraphes suivants :

Aucun appel : zone protégée de grande station de transport en commun – utilisation autorisée

(19.5) Malgré les paragraphes (19) et (19.3.1) et sous réserve des paragraphes (19.6) à (19.8), il ne peut être interjeté appel à l'égard de l'une ou l'autre des parties suivantes :

- a) les parties d'un règlement municipal qui précisent les utilisations autorisées ou les densités minimales ou maximales en ce qui concerne les bâtiments et les constructions situés sur les terrains d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe 16 (15) ou (16);
- b) les parties d'un règlement municipal qui précisent les hauteurs minimales ou maximales en ce qui concerne les bâtiments et les constructions situés sur les terrains d'une zone protégée de grande station de transport en commun désignée conformément au paragraphe 16 (15) ou (16).

Idem : règlement d'une municipalité de palier inférieur

(19.6) Le paragraphe (19.5) ne s'applique au règlement d'une municipalité de palier inférieur que si le plan officiel de la municipalité contient toutes les politiques visées aux sous-alinéas 16 (16) b) (i) et (ii) à l'égard de la zone protégée de grande station de transport en commun.

Exception

(19.7) L'alinéa (19.5) b) ne s'applique pas dans les cas où la hauteur maximale autorisée à l'égard d'un bâtiment ou d'une construction situé sur une parcelle de terrain particulière entraînerait le non-respect par le bâtiment ou la construction de la densité minimale exigée à l'égard de cette parcelle.

Exception : ministre

(19.8) Le paragraphe (19.5) ne s'applique pas à un appel interjeté par le ministre.

(8) Le paragraphe 34 (23) de la Loi est abrogé et remplacé par ce qui suit :**Dossier**

(23) Le secrétaire de la municipalité qui reçoit l'avis d'appel visé au paragraphe (11) ou (19) fait en sorte que :

- a) soit constitué un dossier contenant les renseignements et documents prescrits;
- b) soient transmis l'avis d'appel, le dossier et les droits au Tribunal :
 - (i) soit dans les 15 jours suivant le dernier jour prévu pour le dépôt d'un avis d'appel en vertu du paragraphe (11.0.3) ou (19), selon le cas,
 - (ii) soit dans les 15 jours suivant le dépôt d'un avis d'appel en vertu du paragraphe (11) à l'égard du défaut de prendre une décision;
- c) soient transmis au Tribunal les autres renseignements ou documents qu'il exige à l'égard de l'appel.

(9) Les paragraphes 34 (24.3) à (24.6) de la Loi sont abrogés.

(10) Le paragraphe 34 (24.7) de la Loi est modifié par remplacement de «Les paragraphes (24.1) à (24.6)» par «Les paragraphes (24.1) et (24.2)» au début du paragraphe.

(11) Le paragraphe 34 (25) de la Loi est abrogé et remplacé par ce qui suit :**Rejet sans audience**

(25) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (24), le Tribunal rejette la totalité ou une partie d'un appel sans tenir d'audience, de sa propre initiative ou sur motion d'une partie, dans l'un ou l'autre des cas suivants :

1. Le Tribunal est d'avis que les explications exigées par le paragraphe (11.0.0.4) ne démontrent pas ce qui suit :
 - i. La ou les parties existantes du règlement municipal auxquelles la modification qui fait l'objet de la demande porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou ne sont pas conformes à un plan officiel applicable.
 - ii. La modification qui fait l'objet de la demande est compatible aux déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et est conforme aux plans officiels applicables.
2. Le Tribunal est d'avis que l'explication exigée par le paragraphe (19.0.2) ne démontre pas que le règlement municipal est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou qu'elle n'est pas conforme à un plan officiel applicable.
3. Le Tribunal est d'avis que :
 - i. l'appel n'est pas interjeté de bonne foi ou il est frivole ou vexatoire,
 - ii. l'appel est interjeté uniquement pour retarder la procédure,

- iii. l'appelant a de façon persistante et sans motifs raisonnables introduit devant le Tribunal des instances qui constituent un abus de procédure.
- 4. L'appelant n'a pas fourni l'explication exigée par le paragraphe (11.0.0.0.4) ou (19.0.2), selon le cas.
- 5. L'appelant n'a pas acquitté les droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et n'a pas acquitté les droits demandés par le Tribunal dans le délai qu'il a précisé.
- 6. L'appelant n'a pas fourni au Tribunal les renseignements supplémentaires que celui-ci a demandés dans le délai qu'il a précisé.

(12) Le paragraphe 34 (25.1) de la Loi est modifié :

- a) par remplacement de «Avant de rejeter la totalité ou une partie d'un appel, la Commission des affaires municipales» par «Avant de rejeter la totalité ou une partie d'un appel, le Tribunal» au début du paragraphe;
- b) par remplacement de «à l'alinéa (25) d)» par «à la disposition 5 ou 6 du paragraphe (25)» à la fin du paragraphe.

(13) Le paragraphe 34 (25.1.1) de la Loi est abrogé et remplacé par ce qui suit :

Idem

(25.1.1) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (24), le Tribunal peut, de sa propre initiative ou sur motion de la municipalité ou du ministre, rejeter la totalité ou une partie d'un appel sans tenir d'audience s'il est d'avis que la demande à laquelle se rapporte l'appel est considérablement différente de celle dont le conseil était saisi au moment où il a pris sa décision.

(14) Le paragraphe 34 (26) de la Loi est abrogé et remplacé par ce qui suit :

Pouvoirs du T.A.A.L.

(26) Sous réserve des paragraphes (26.1) à (26.10) et (26.13), après avoir tenu une audience sur un appel interjeté en vertu du paragraphe (11) ou (19), le Tribunal le rejette.

Avis : occasion de prendre une nouvelle décision — appel interjeté en vertu du par. (11)

(26.1) Sauf si le paragraphe (26.3), (26.6), (26.7) ou (26.9) s'applique, lors d'un appel interjeté en vertu du paragraphe (11), le Tribunal avise le secrétaire de la municipalité qu'il est donné à la municipalité l'occasion de prendre une nouvelle décision à l'égard de la question, s'il détermine ce qui suit :

- a) la ou les parties existantes du règlement municipal auxquelles la modification qui fait l'objet de la demande porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou ne sont pas conformes à un plan officiel applicable;
- b) la modification qui fait l'objet de la demande est compatible avec les déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et est conforme aux plans officiels applicables.

Idem — appel interjeté en vertu du par. (19)

(26.2) Sauf si le paragraphe (26.3), (26.8) ou (26.9) s'applique, si, lors d'un appel interjeté en vertu du paragraphe (19), le Tribunal détermine qu'une partie du règlement municipal à laquelle se rapporte l'avis d'appel est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qu'elle n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou qu'elle n'est pas conforme à un plan officiel applicable :

- a) d'une part, le Tribunal abroge cette partie du règlement municipal;
- b) d'autre part, le Tribunal avise le secrétaire de la municipalité qui a adopté le règlement municipal qu'il est donné à la municipalité l'occasion de prendre une nouvelle décision à l'égard de la question.

Pouvoirs du T.A.A.L. — projet de règlement municipal avec le consentement des parties

(26.3) Sauf si le paragraphe (26.9) s'applique, si un projet de règlement municipal est présenté au Tribunal avec le consentement de toutes les parties précisées au paragraphe (26.11), le Tribunal l'approuve à l'exception de toute partie de celui-ci qui est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qui n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou qui n'est pas conforme à un plan officiel applicable.

Avis pour prendre une nouvelle décision

(26.4) Si le paragraphe (26.3) s'applique et que le Tribunal détermine que toute partie du projet de règlement municipal est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou n'est pas conforme à un plan officiel applicable, le Tribunal avise le secrétaire de la municipalité qu'il est donné à la municipalité l'occasion de prendre une nouvelle décision à l'égard de la question.

Règles applicables si un avis est reçu

(26.5) Si le secrétaire a reçu l'avis visé au paragraphe (26.1), à l'alinéa (26.2) b) ou au paragraphe (26.4), les règles suivantes s'appliquent :

1. Le conseil de la municipalité peut préparer et adopter un nouveau règlement municipal conformément au présent article, sauf que l'alinéa (12) b) ne s'applique pas.
2. La mention de «dans les 150 jours de la réception de la demande par le secrétaire de la municipalité» au paragraphe (11) vaut mention de «dans les 90 jours qui suivent le jour de la réception de l'avis visé au paragraphe (26.1), à l'alinéa (26.2) b) ou au paragraphe (26.4)».

Deuxième appel : par. (11) — défaut de prendre une décision

(26.6) Lors d'un appel interjeté en vertu du paragraphe (11) concernant le défaut de prendre une décision au sujet d'une demande à l'égard de laquelle il a été donné à la municipalité l'occasion de prendre une nouvelle décision conformément au paragraphe (26.5), le Tribunal peut modifier le règlement municipal de la façon qu'il décide ou ordonner au conseil de la municipalité de le modifier conformément à son ordonnance.

Deuxième appel : par. (11) — refus

(26.7) Sauf si le paragraphe (26.9) s'applique, lors d'un appel interjeté en vertu du paragraphe (11) concernant le refus d'une demande à l'égard de laquelle il a été donné à la municipalité l'occasion de prendre une nouvelle décision conformément au paragraphe (26.5), le Tribunal peut modifier le règlement municipal de la façon qu'il décide ou ordonner au conseil de la municipalité de le modifier conformément à son ordonnance, s'il détermine ce qui suit :

- a) la ou les parties existantes du règlement municipal auxquelles la modification qui fait l'objet de la demande porterait atteinte sont incompatibles avec une déclaration de principes faite en vertu du paragraphe 3 (1), ne sont pas conformes à un plan provincial, ou sont incompatibles avec un tel plan, ou ne sont pas conformes à un plan officiel applicable;
- b) la modification qui fait l'objet de la demande est compatible avec les déclarations de principes faites en vertu du paragraphe 3 (1), est conforme aux plans provinciaux ou n'est pas incompatible avec eux et est conforme aux plans officiels applicables.

Deuxième appel — par. (19)

(26.8) Sauf si le paragraphe (26.9) s'applique, lors d'un appel interjeté en vertu du paragraphe (19) concernant une nouvelle décision prise par la municipalité après qu'il lui a été donné l'occasion de le faire conformément au paragraphe (26.5), le Tribunal peut abroger tout ou partie du règlement municipal ou le modifier de la façon qu'il décide ou ordonner au conseil de la municipalité d'abroger tout ou partie du règlement municipal ou de le modifier conformément à son ordonnance, s'il détermine que la décision est incompatible avec des déclarations de principes faites en vertu du paragraphe 3 (1), qu'elle n'est pas conforme aux plans provinciaux, ou est incompatible avec ceux-ci, ou qu'elle n'est pas conforme à un plan officiel applicable.

Projet de règlement municipal avec le consentement des parties

(26.9) Si, lors d'un appel visé au paragraphe (26.7) ou (26.8), un projet de règlement municipal est présenté au Tribunal avec le consentement de toutes les parties précisées au paragraphe (26.11), le Tribunal l'approuve à titre de règlement municipal de zonage à l'exception de toute partie de celui-ci qui est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), qui n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou qui n'est pas conforme à un plan officiel applicable.

Idem

(26.10) Si le paragraphe (26.9) s'applique et que le Tribunal détermine que toute partie du projet de règlement municipal est incompatible avec une déclaration de principes faite en vertu du paragraphe 3 (1), n'est pas conforme à un plan provincial, ou est incompatible avec un tel plan, ou n'est pas conforme à un plan officiel applicable, le Tribunal peut refuser de modifier le règlement municipal de zonage, le modifier de la façon qu'il décide ou ordonner au conseil de la municipalité de le modifier conformément à son ordonnance.

Parties précisées

(26.11) Pour l'application des paragraphes (26.3) et (26.9), les parties précisées sont les suivantes :

1. La municipalité.
2. Le ministre, s'il est partie.
3. L'auteur de la demande, le cas échéant.
4. Tous les appelants de la décision qui faisait l'objet de l'appel, le cas échéant.

Effet sur le règlement municipal initial

(26.12) Si le paragraphe (26.3) ou (26.9) s'applique dans le cas d'un appel interjeté en vertu du paragraphe (19), le règlement municipal qui faisait l'objet de l'avis d'appel est réputé avoir été abrogé.

Non-application du par. 24 (4)

(26.13) Un appel interjeté en vertu du paragraphe (11) ne doit pas être rejeté pour le motif que le règlement municipal est réputé conforme à un plan officiel en application du paragraphe 24 (4).

(15) Le paragraphe 34 (27) de la Loi est abrogé et remplacé par ce qui suit :**Questions d'intérêt provincial**

(27) Lors d'un appel interjeté devant le Tribunal en vertu du paragraphe (11) ou (19), le ministre peut, s'il estime que le règlement municipal porte ou portera vraisemblablement atteinte à une question d'intérêt provincial, en aviser le Tribunal par écrit au plus tard 30 jours après le jour où ce dernier donne l'avis qu'exige le paragraphe (24). Le ministre précise alors :

- a) la ou les parties du règlement municipal qui portent ou porteront vraisemblablement atteinte à l'intérêt provincial;
- b) ce sur quoi il se fonde généralement pour estimer qu'il est ou sera vraisemblablement porté atteinte à une question d'intérêt provincial.

(16) Le paragraphe 34 (29) de la Loi est abrogé et remplacé par ce qui suit :**Règles applicables si l'avis visé au par. (27) est reçu**

(29) Si le Tribunal reçoit un avis du ministre en vertu du paragraphe (27), les règles suivantes s'appliquent :

1. Les paragraphes (26) à (26.12) ne s'appliquent pas à l'appel.
2. Le Tribunal peut décider si l'appel doit être rejeté, si le règlement municipal doit être abrogé ou modifié en tout ou en partie ou s'il doit être ordonné au conseil de la municipalité d'abroger ou de modifier le règlement municipal en tout ou en partie.
3. Le Tribunal ne doit pas rendre d'ordonnance à l'égard de la ou des parties du règlement municipal précisées dans l'avis.

(17) Le paragraphe 34 (30) de la Loi est modifié par remplacement de «abrogées ou modifiées en vertu du paragraphe (26)» par «abrogées en vertu du paragraphe (26.2) ou (26.8) ou modifiées en vertu du paragraphe (26.8).».

11 (1) Le paragraphe 36 (3) de la Loi est abrogé et remplacé par ce qui suit :**Appel devant le T.A.A.L.**

(3) Si le conseil refuse la demande de modification du règlement municipal relative à la suppression du symbole d'utilisation différée ou s'il omet de prendre une décision à ce sujet dans les 150 jours de la réception de la demande par le secrétaire, l'auteur de la demande peut interjeter appel devant le Tribunal. Le Tribunal entend l'appel et décide de rejeter l'appel ou de modifier le règlement municipal en vue de supprimer le symbole d'utilisation différée ou ordonne que le règlement municipal soit modifié conformément à son ordonnance.

(2) Le paragraphe 36 (4) de la Loi est modifié par remplacement de «Les paragraphes 34 (10.7) et (10.9) à (25.1)» par «Les paragraphes 34 (10.7), (10.9) à (20.4) et (22) à (34)» au début du paragraphe.

12 (1) Le paragraphe 38 (4) de la Loi est abrogé et remplacé par ce qui suit :**Appel devant le T.A.A.L. : règlement municipal adopté en vertu du par. (1)**

(4) Le ministre peut, dans les 60 jours qui suivent la date où un règlement municipal a été adopté en vertu du paragraphe (1), interjeter appel devant le Tribunal en déposant, auprès du secrétaire de la municipalité, l'avis d'appel qui expose l'opposition à ce règlement et les motifs à l'appui.

Appel devant le T.A.A.L. : règlement municipal adopté en vertu du par. (2)

(4.1) La personne ou l'organisme public qui reçoit l'avis de l'adoption d'un règlement municipal en vertu du paragraphe (2) peut, dans les 60 jours qui suivent la date où le règlement municipal a été adopté, interjeter appel devant le Tribunal en déposant, auprès du secrétaire de la municipalité, l'avis d'appel qui expose l'opposition à ce règlement et les motifs à l'appui.

(2) Le paragraphe 38 (5) de la Loi est modifié par remplacement de «en vertu du paragraphe (4), les paragraphes 34 (23) à (26) s'appliquent» par «en vertu du paragraphe (4) ou (4.1), les paragraphes 34 (23) à (26), tels qu'ils existaient la veille de l'entrée en vigueur du paragraphe 12 (2) de l'annexe 3 de la Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques, s'appliquent».

13 (1) Le paragraphe 41 (12) de la Loi est abrogé et remplacé par ce qui suit :

Appel devant le T.A.A.L. : approbation de plans ou de dessins

(12) Si la municipalité n'approuve pas les plans ou dessins visés au paragraphe (4) dans les 30 jours qui suivent la date où ils lui sont présentés, le propriétaire peut interjeter appel, devant le Tribunal, du défaut d'approbation des plans ou dessins en déposant auprès du secrétaire de la municipalité un avis d'appel accompagné des droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

Appel devant le T.A.A.L. : exigence imposée en vertu du par. (7) ou (8)

(12.0.1) Si le propriétaire du terrain n'est pas satisfait de tout ou partie des exigences imposées par la municipalité en vertu du paragraphe (7) ou par la municipalité de palier supérieur en vertu du paragraphe (8), y compris les conditions de toute convention exigée, il peut interjeter appel devant le Tribunal de tout ou partie des exigences qu'il estime non satisfaisantes, y compris les conditions de toute convention exigée, en déposant un avis d'appel auprès du secrétaire de la municipalité locale accompagné des droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

Dossier

(12.0.2) S'il reçoit l'avis d'appel visé au paragraphe (12) ou (12.0.1), le secrétaire veille à ce que les documents et droits suivants soient transmis au Tribunal dans les 15 jours suivant le dépôt de l'avis :

1. L'avis d'appel.
2. Les droits.
3. Les plans et dessins présentés pour approbation en application du paragraphe (4).
4. Dans le cas d'un appel interjeté en vertu du paragraphe (12.0.1), les documents qui énoncent les exigences imposées par la municipalité en vertu du paragraphe (7) ou par la municipalité de palier supérieur en vertu du paragraphe (8), selon le cas.

(2) Le paragraphe 41 (12.1) de la Loi est modifié :

- a) par remplacement de «La Commission des affaires municipales entend» par «Le Tribunal entend» au début du paragraphe;
- b) par suppression de «Sa décision est définitive» à la fin du paragraphe.

(3) Le paragraphe 41 (16) de la Loi est abrogé et remplacé par ce qui suit :**Cité de Toronto**

(16) Le présent article ne s'applique pas à l'égard de la cité de Toronto.

14 Le paragraphe 45 (1.0.3) de la Loi est modifié par remplacement de «les dispositions suivantes s'appliquent» par «les dispositions suivantes, telles qu'elles existaient la veille de l'entrée en vigueur de l'article 14 de l'annexe 3 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*, s'appliquent» dans le passage qui précède la disposition 1.

15 (1) Le paragraphe 47 (5) de la Loi est modifié par suppression de «, et y expose les dispositions des paragraphes (8), (9) et (10)» à la fin du paragraphe.

(2) Le paragraphe 47 (8) de la Loi est abrogé et remplacé par ce qui suit :**Révocation ou modification de l'arrêté**

(8) La modification de l'arrêté pris en vertu du paragraphe (1), ou sa révocation en tout ou en partie, peut être entreprise par le ministre de sa propre initiative ou à la demande de toute personne ou d'un organisme public.

Loi sur la jonction des audiences

(8.0.1) Malgré la *Loi sur la jonction des audiences*, le promoteur d'une entreprise ne doit pas donner l'avis prévu au paragraphe 3 (1) de cette loi au registraire des audiences à l'égard d'une demande visée au paragraphe (8), à moins que le ministre n'ait renvoyé celle-ci au Tribunal en vertu du paragraphe (10).

(3) Les paragraphes 47 (9) à (14) de la Loi sont abrogés et remplacés par ce qui suit :**Action du ministre**

(9) S'il entreprend de modifier ou de révoquer l'arrêté pris en vertu du paragraphe (1) ou qu'il reçoit une demande de modification ou de révocation de l'arrêté, le ministre donne ou fait donner un avis de la modification ou de la révocation proposée de la façon qu'il juge appropriée et accorde le délai qu'il estime suffisant pour présenter des observations à ce sujet.

Renvoi de la demande visée au par. (8)

(10) Le ministre peut renvoyer la demande visée au paragraphe (8) au Tribunal.

Audience tenue par le Tribunal

(11) Si le ministre renvoie la demande au Tribunal, celui-ci tient une audience.

Avis d'audience

(12) L'avis d'audience est donné aux personnes et de la façon que le Tribunal détermine.

Recommandation

(13) À l'issue de l'audience, le Tribunal recommande, par écrit, que le ministre approuve la modification ou la révocation demandée en totalité ou en partie, y apporte des changements et l'approuve ainsi changée ou la refuse en totalité ou en partie, en motivant sa recommandation.

Avis de la recommandation

(14) Une copie de la recommandation du Tribunal est envoyée à chaque personne qui a assisté à l'audience et y a présenté des observations et aux personnes qui en font la demande par écrit.

Décision de modifier ou de révoquer

(15) Après examen des observations reçues, le cas échéant, en application du paragraphe (9) et de la recommandation faite, le cas échéant, par le Tribunal en application du paragraphe (13), le ministre peut, par arrêté, modifier ou révoquer tout ou partie de l'arrêté pris en vertu du paragraphe (1).

Avis de la décision

(16) Le ministre transmet une copie de sa décision de modifier ou de révoquer tout ou partie de l'arrêté au secrétaire de chaque municipalité ou au secrétaire-trésorier de chaque conseil d'aménagement situé dans la zone visée par la modification et aux personnes qui en font la demande par écrit.

16 Le paragraphe 51 (52.4) de la Loi est abrogé et remplacé par ce qui suit :**Idem**

(52.4) Si le paragraphe (52.3) s'applique et que l'autorité approbatrice le demande, le Tribunal ne doit pas admettre les renseignements et les documents en preuve tant que le paragraphe (52.5) n'a pas été observé et que le délai prescrit n'a pas expiré.

17 La Loi est modifiée par adjonction de l'article suivant :**Règlements : questions de transition (modifications de 2017)**

70.8 (1) Le ministre peut, par règlement, prévoir les questions de transition concernant les affaires et les procédures introduites avant ou après la date d'effet.

Idem

(2) Sans préjudice de la portée générale du présent article, un règlement pris en vertu de celui-ci peut :

- a) déterminer les affaires et les procédures qui peuvent être poursuivies et réglées en vertu de la présente loi, telle qu'elle existait la veille de la date d'effet, et celles qui doivent l'être en vertu de la présente loi, telle qu'elle existait à la date d'effet;
- b) prévoir, pour l'application du paragraphe (1), qu'une affaire ou une procédure est réputée avoir été introduite à la date ou dans les circonstances qui sont précisées dans le règlement.

Idem

(3) Si un règlement pris en vertu du présent article prévoit qu'une affaire ou une procédure doit être poursuivie et réglée conformément à la présente loi, telle qu'elle existait à la date d'effet, lorsqu'un avis d'appel a été déposé après le jour où la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques* reçoit la sanction royale, mais avant la date de prise d'effet, le règlement peut également :

- a) prévoir que l'appel est réputé ne pas avoir été interjeté;
- b) exiger que le Tribunal donne à l'appelant un avis précisant le délai dans lequel un nouvel avis d'appel peut être déposé auprès du Tribunal;
- c) exiger que l'appelant dépose un nouvel avis d'appel auprès du Tribunal dans le délai que ce dernier précise;
- d) prévoir qu'un appel est réputé avoir été rejeté si le nouvel avis d'appel n'est pas reçu dans le délai précisé dans l'avis;
- e) prévoir la non-application de dispositions précisées de la présente loi aux affaires et aux procédures pour la durée précisée dans les règlements;
- f) prévoir des règles concernant l'application de délais précisés dans un règlement pris en vertu de l'alinéa 43 (1) c) de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* à des appels précisés;

- g) prévoir que, malgré la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*, un appelant n'est pas tenu d'acquitter les droits exigés en vertu de cette loi.

Incompatibilité

(4) Les règlements pris en vertu du présent article l'emportent sur toute disposition de la présente loi qu'ils mentionnent expressément.

Définition

(5) La définition qui suit s'applique au présent article.

«date d'effet» Date à laquelle l'article 17 de l'annexe 3 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques* entre en vigueur.

Incompatibilité

(6) Aucune cause d'action ne résulte directement ou indirectement :

- a) soit de l'édiction du présent article;
- b) soit de la prise ou de l'abrogation d'une disposition des règlements pris en vertu du présent article;
- c) soit de quoi que ce soit qui est fait ou n'est pas fait conformément au présent article ou à ses règlements d'application.

Aucun recours

(7) Aucuns frais, indemnités ni dommages-intérêts ne sont dus à quelque personne que ce soit ni à payer à celle-ci, et aucune personne ne peut se prévaloir d'un recours, notamment un recours contractuel ou un recours en responsabilité délictuelle, en restitution ou en fiducie, relativement à quoi que ce soit qui est visé au paragraphe (6).

Irrecevabilité de certaines instances

(8) Sont irrecevables les instances, notamment les instances en responsabilité contractuelle ou délictuelle, celles fondées sur une fiducie ou celles en restitution, qui sont introduites ou poursuivies contre quelque personne que ce soit et qui, directement ou indirectement, se fondent sur quoi que ce soit qui est visé au paragraphe (6), ou s'y rapportent.

Idem

(9) Le paragraphe (8) s'applique, que la cause d'action sur laquelle l'instance se présente comme étant fondée ait pris naissance avant ou après l'entrée en vigueur de la présente loi.

Rejet d'instances

(10) Les instances visées au paragraphe (8) qui sont introduites avant le jour de l'entrée en vigueur de l'article 17 de l'annexe 3 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques* sont réputées avoir été rejetées, sans dépens, ce jour-là.

Ni expropriation ni effet préjudiciable

(11) Aucune mesure prise ou non prise conformément à la présente loi ou ses règlements d'application ne constitue une expropriation ou un effet préjudiciable pour l'application de la *Loi sur l'expropriation* ou par ailleurs en droit.

Définition de «personne»

(12) La définition qui suit s'applique au présent article.

«personne» S'entend notamment de la Couronne et de ses employés et mandataires, des membres du Conseil exécutif ainsi que des municipalités et de leurs employés et mandataires.

LOI DE 2006 SUR LA CITÉ DE TORONTO

18 (1) L'article 114 de la *Loi de 2006 sur la cité de Toronto* est modifié par adjonction du paragraphe suivant :

Exception

(1.1) La définition de «exploitation» au paragraphe (1) ne s'entend pas de l'installation d'une salle de classe mobile sur un emplacement scolaire d'un conseil scolaire de district, si cet emplacement existait le 1^{er} janvier 2007.

(2) Le paragraphe 114 (5) de la Loi est modifié :

- a) par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local» dans le passage qui précède la disposition 1;
- b) par remplacement de «requis en vertu de l'alinéa (11) a)» par «requis en vertu de l'alinéa (11) a), y compris des installations conçues pour tenir compte de l'accessibilité des personnes handicapées» à la fin de la disposition 1.

(3) La disposition 2 du paragraphe 114 (5) de la Loi est modifiée par adjonction de la sous-disposition suivante :

- vi. les installations conçues pour tenir compte de l'accessibilité des personnes handicapées.

(4) L'alinéa 114 (11) a) de la Loi est modifié par adjonction du sous-alinéa suivant :

(iv.1) des installations conçues pour tenir compte de l'accessibilité des personnes handicapées,

(5) Les paragraphes 114 (15) et (16) de la Loi sont abrogés et remplacés par ce qui suit :**Appel devant le T.A.A.L. : approbation de plans ou de dessins**

(15) Si la cité n'approuve pas les plans ou dessins visés au paragraphe (5) dans les 30 jours qui suivent la date où ils lui sont présentés, le propriétaire peut interjeter appel du défaut d'approbation des plans ou dessins devant le Tribunal d'appel de l'aménagement local en déposant auprès du secrétaire municipal un avis d'appel accompagné des droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

Appel devant le T.A.A.L. : exigence imposée en vertu du par. (11)

(15.1) Si le propriétaire du bien-fonds n'est pas satisfait de tout ou partie des exigences imposées par la cité en vertu du paragraphe (11), y compris les conditions de toute convention exigée, il peut interjeter appel devant le Tribunal d'appel de l'aménagement local de tout ou partie des exigences qu'il estime non satisfaisantes, y compris les conditions de toute convention exigée, en déposant auprès du secrétaire municipal un avis d'appel accompagné des droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

Transmission des plans et dessins au T.A.A.L. par le secrétaire municipal

(15.2) S'il reçoit l'avis d'appel visé au paragraphe (15) ou (15.1), le secrétaire municipal veille à ce que les documents et droits suivants soient transmis au Tribunal d'appel de l'aménagement local dans les 15 jours suivant le dépôt de l'avis :

1. L'avis d'appel.
2. Les droits.
3. Les plans et dessins présentés pour approbation en application du paragraphe (5).
4. Dans le cas d'un appel prévu au paragraphe (15.1), les documents qui énoncent les exigences imposées par la municipalité en vertu du paragraphe (11).

Audience

(16) Le Tribunal d'appel de l'aménagement local entend et tranche la question en litige, détermine le détail des plans ou dessins et détermine les exigences, y compris les dispositions de toute convention exigée.

19 (1) Les paragraphes 115 (5) et (6) de la Loi sont abrogés et remplacés par ce qui suit :**Pouvoir d'entendre les appels**

(5) La cité peut, par règlement municipal, investir l'organisme d'appel du pouvoir d'entendre des appels interjetés ou des motions pour obtenir des directives présentées, selon le cas, en vertu :

- a) soit des paragraphes 114 (7), (15) et (15.1);
- b) soit du paragraphe 45 (12) de la *Loi sur l'aménagement du territoire*;
- c) soit des paragraphes 53 (4.1), (14), (19) et (27) de la *Loi sur l'aménagement du territoire*;
- d) soit des dispositions énumérées dans toute combinaison des alinéas a), b) et c).

Interprétation : appels

(5.1) Les règles suivantes s'appliquent si un règlement municipal a été adopté en vertu du paragraphe (5) pour investir l'organisme d'appel du pouvoir d'entendre des motions pour obtenir des directives présentées en vertu du paragraphe 114 (7) de la présente loi ou du paragraphe 53 (4.1) de la *Loi sur l'aménagement du territoire*, ou des deux :

1. Les mentions d'un appel au présent article, sauf au paragraphe (9), s'interprètent comme incluant la mention d'une motion pour obtenir des directives présentée en vertu du paragraphe 114 (7) de la présente loi ou du paragraphe 53 (4.1) de la *Loi sur l'aménagement du territoire*, ou des deux, selon le cas.
2. La mention de l'appelant au paragraphe (8) s'interprète comme incluant la mention de la personne ou de l'organisme public qui présente une motion pour obtenir des directives en vertu du paragraphe 114 (7) de la présente loi ou du paragraphe 53 (4.1) de la *Loi sur l'aménagement du territoire*, ou des deux, selon le cas.

Effet du règlement municipal visé au par. (5)

(6) Si un règlement municipal a été adopté en vertu du paragraphe (5) :

- a) l'organisme d'appel est investi des pouvoirs et des fonctions que le présent article et les dispositions pertinentes de la *Loi sur l'aménagement du territoire* attribuent au Tribunal d'appel de l'aménagement local;

- b) toute mention du Tribunal d'appel de l'aménagement local au présent article, à l'article 114 et dans *Loi sur l'aménagement du territoire*, en ce qui a trait aux appels interjetés en vertu des dispositions pertinentes, vaut mention de l'organisme d'appel;
- c) les appels interjetés en vertu des dispositions pertinentes le sont devant l'organisme d'appel et non devant le Tribunal d'appel de l'aménagement local.

(2) Le paragraphe 115 (9.1) de la Loi est abrogé et remplacé par ce qui suit :

Exception

(9.1) Le paragraphe (9) ne s'applique pas à l'égard d'une motion pour obtenir des directives présentée en vertu du paragraphe 114 (7) de la présente loi ou du paragraphe 53 (4.1) de la *Loi sur l'aménagement du territoire*.

(3) Le paragraphe 115 (11) de la Loi est abrogé et remplacé par ce qui suit :

Idem

(11) Pour l'application des paragraphes (10) et (14), constitue un appel connexe à l'égard d'un appel interjeté en vertu d'une des dispositions énumérées au paragraphe (5) l'appel interjeté :

- a) d'une part, à l'égard de la même question que celui interjeté en vertu d'une des dispositions énumérées au paragraphe (5);
- b) d'autre part, en vertu d'une autre disposition énumérée au paragraphe (5) à l'égard de laquelle l'organisme d'appel n'a pas été investi de pouvoir en vertu de l'article 17, 22, 34, 36, 38 ou 51 de la *Loi sur l'aménagement du territoire* ou en vertu d'un règlement pris en vertu de l'article 70.2 de cette loi.

(4) Le paragraphe 115 (12) de la Loi est abrogé et remplacé par ce qui suit :

Litige relatif à l'application du par. (10) ou (14)

(12) Une personne peut, par voie de motion pour obtenir des directives, demander au Tribunal d'appel de l'aménagement local de trancher le litige sur la question de savoir si le paragraphe (10) ou (14) s'applique à un appel.

(5) Le paragraphe 115 (14) de la Loi est abrogé et remplacé par ce qui suit :

Compétence exercée par le T.A.A.L.

(14) Si un appel a été interjeté devant l'organisme d'appel en vertu d'une des dispositions énumérées au paragraphe (5) mais qu'aucune audience n'a débuté, et qu'un avis d'appel est déposé auprès du Tribunal d'appel de l'aménagement local à l'égard d'un appel connexe, le Tribunal exerce sa compétence pour entendre l'appel mentionné en premier lieu.

(6) Le paragraphe 115 (22) de la Loi est abrogé et remplacé par ce qui suit :

Disposition transitoire

(22) Le présent article ne s'applique pas à l'égard des appels suivants :

1. Un appel interjeté en vertu du paragraphe 45 (12) de la *Loi sur l'aménagement du territoire*, si la décision du comité à l'égard de laquelle l'avis d'appel est déposé est prise avant le jour de l'entrée en vigueur d'un règlement municipal adopté par la cité en vertu du paragraphe (5) du présent article qui investit l'organisme d'appel local du pouvoir d'entendre ce type d'appel.
2. Un appel interjeté en vertu du paragraphe 53 (19) ou (27) de la *Loi sur l'aménagement du territoire*, si l'avis visé au paragraphe 53 (17) ou (24) de cette loi, selon le cas, est donné avant le jour de l'entrée en vigueur d'un règlement adopté par la cité en vertu du paragraphe (5) du présent article qui investit l'organisme d'appel local du pouvoir d'entendre ce type d'appel.
3. Un appel interjeté en vertu du paragraphe 114 (7), (15) ou (15.1) de la présente loi ou du paragraphe 53 (4.1) ou (14) de la *Loi sur l'aménagement du territoire*, si l'appel est interjeté avant le jour de l'entrée en vigueur d'un règlement municipal adopté par la cité en vertu du paragraphe (5) du présent article qui investit l'organisme d'appel local du pouvoir d'entendre ce type d'appel.

Règle déterminative : appels interjetés en vertu du par. 53 (4.1) de la Loi sur l'aménagement du territoire

(23) Si, avant le jour de l'entrée en vigueur du paragraphe 19 (1) de l'annexe 3 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*, la cité adopte un règlement municipal en vertu du paragraphe (5) qui investit l'organisme d'appel du pouvoir d'entendre des appels interjetés en vertu des paragraphes 53 (14), (19) et (27) de la *Loi sur l'aménagement du territoire*, ce règlement est réputé investir l'organisme d'appel du pouvoir d'entendre des appels interjetés en vertu du paragraphe 53 (4.1) de cette loi ce jour-là ou par la suite.

LOI DE 1994 SUR LA PLANIFICATION ET L'AMÉNAGEMENT DU TERRITOIRE DE L'ONTARIO

20 L'article 6 de la *Loi de 1994 sur la planification et l'aménagement du territoire de l'Ontario* est modifié par adjonction du paragraphe suivant :

Loi sur la jonction des audiences

(3.1) Malgré la *Loi sur la jonction des audiences*, le promoteur d'une entreprise ne doit pas donner l'avis prévu au paragraphe 3 (1) de cette loi au registrateur des audiences à l'égard d'une demande visée au paragraphe (1), à moins que le ministre n'ait nommé un agent enquêteur en vertu de l'alinéa 7 (4) a) ou 8 (1) a) ou qu'il n'ait renvoyé la question au Tribunal d'appel de l'aménagement local en vertu de l'alinéa 7 (4) b) ou de l'alinéa 8 (1) b).

Entrée en vigueur

21 La présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

ANNEXE 4
MODIFICATIONS DE LA LOI SUR LES OFFICES DE PROTECTION DE LA NATURE

1 La Loi sur les offices de protection de la nature est modifiée par adjonction de l'article suivant :

PARTIE I
OBJET ET INTERPRÉTATION**Objet**

0.1 La présente loi a pour objet de prévoir l'organisation et la prestation de programmes et services qui favorisent la protection, la régénération, la mise en valeur et la gestion des richesses naturelles des bassins hydrographiques de l'Ontario.

2 (1) Les définitions de «frais d'administration» et de «frais d'entretien» à l'article 1 de la Loi sont abrogées.

(2) L'article 1 de la Loi est modifié par adjonction de la définition suivante :

«dépenses d'exploitation» S'entend en outre :

- a) des salaires, des indemnités journalières et des dépenses pour déplacement des employés et des membres d'un office,
- b) du loyer et des autres frais de bureau,
- c) des dépenses liées aux programmes,
- d) des coûts liés à l'exploitation ou à l'entretien d'un projet, à l'exclusion des coûts en immobilisations du projet,
- e) des autres coûts prescrits par règlement. («operating expenses»)

3 La Loi est modifiée par adjonction de l'intertitre suivant immédiatement avant l'article 2 :

PARTIE II
CRÉATION D'UN OFFICE DE PROTECTION DE LA NATURE

4 Le paragraphe 2 (4) de la Loi est modifié par suppression de «Toutefois, lorsque trois représentants au moins assistent à une assemblée ou à la reprise d'une assemblée ayant été ajournée, ils peuvent l'ajourner ou l'ajourner de nouveau» à la fin du paragraphe.

5 (1) Le paragraphe 3 (1) de la Loi est modifié par suppression de «ou de la reprise d'une assemblée ayant été ajournée et».

(2) Le paragraphe 3 (5) de la Loi est modifié par suppression de «portant intérêts au taux approuvé par le ministre».

6 (1) Le paragraphe 4 (1) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) par ce qui suit :

Municipalités de palier supérieur**Municipalités régionales agissant à la place des municipalités locales**

(1) Une municipalité de palier supérieur créée en tant que municipalité régionale avant le jour de l'entrée en vigueur du paragraphe 6 (1) de l'annexe 4 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques* :

(2) Le paragraphe 4 (2) de la Loi est abrogé.

7 La Loi est modifiée par adjonction de l'intertitre suivant immédiatement avant l'article 10 :

PARTIE III
EXPANSION DES ZONES DE COMPÉTENCE, FUSION OU DISSOLUTION

8 Les paragraphes 10 (1.1), (2), (3) et (4) de la Loi sont abrogés et remplacés par ce qui suit :

Avis de l'assemblée

(1.1) Un avis de l'assemblée est remis à chaque municipalité participante de l'office et à toute municipalité située, en totalité ou en partie, dans la zone précisée visée au paragraphe (1).

Représentants

(2) Chaque municipalité qui reçoit un avis de l'assemblée peut nommer à l'assemblée le nombre de représentants fixé conformément au paragraphe 2 (2).

Quorum

(3) Lors d'une assemblée convoquée en vertu du présent article, le quorum est constitué des deux tiers des représentants que les municipalités ont le droit de nommer en vertu du paragraphe (2).

Résolution

(4) Lors d'une assemblée tenue conformément au présent article en présence d'un quorum, une résolution peut être adoptée pour faire l'ensemble des choses suivantes :

1. Consentir à l'expansion de la zone sur laquelle l'office exerce sa compétence.
2. Désigner les municipalités participantes pour la zone élargie.
3. Désigner la zone élargie sur laquelle l'office exerce sa compétence.

Majorité des deux tiers des voix

(5) L'adoption de la résolution visée au paragraphe (4) nécessite la majorité des deux tiers des voix des représentants présents à l'assemblée.

Entrée en vigueur de la résolution

(6) La résolution visée au paragraphe (4) entre en vigueur aux conditions qu'elle précise, et ce, malgré toute mention contraire dans le décret de création de l'office.

Copie au ministre

(7) La municipalité qui a convoqué une assemblée en vertu du paragraphe (1) fournit au ministre une copie de toute résolution visée au paragraphe (4) et adoptée à l'assemblée promptement après son adoption.

9 (1) Le paragraphe 11 (1) de la Loi est modifié par remplacement de «le conseil d'une municipalité située, en totalité ou en partie, dans le territoire de compétence d'un des offices» par «le conseil d'une municipalité participante d'un des offices».

(2) Le paragraphe 11 (1.1) de la Loi est abrogé et remplacé par ce qui suit :

Avis de l'assemblée

(1.1) Un avis de l'assemblée est remis à chaque municipalité participante des offices concernés.

Avis public

(1.2) L'organisme ou les organismes qui convoquent une assemblée en vertu du paragraphe (1) veillent à ce que, au moins 14 jours avant l'assemblée, un avis de l'assemblée soit, selon le cas :

- a) publié dans un journal à grande diffusion dans chaque municipalité participante, y compris dans la version électronique du journal, s'il en existe une;
- b) à défaut de journal à grande diffusion dans la municipalité participante, affiché sur un site Web dont est responsable la municipalité et à au moins un endroit bien en vue dans celle-ci.

Observations du public

(1.3) Nul vote ne peut être tenu sur une résolution demandant la fusion d'offices sans que des membres du public aient eu la possibilité de présenter des observations sur la question lors de l'assemblée.

(3) Les paragraphes 11 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Représentants

(2) Chaque municipalité qui reçoit un avis de l'assemblée peut nommer à l'assemblée le nombre de représentants fixé conformément au paragraphe 2 (2).

Quorum

(3) Lors d'une assemblée convoquée en vertu du présent article, le quorum est constitué des deux tiers des représentants que les municipalités ont le droit de nommer en vertu du paragraphe (2).

(4) Le paragraphe 11 (4) de la Loi est abrogé et remplacé par ce qui suit :

Résolution

(4) Lors d'une assemblée tenue conformément au présent article en présence d'un quorum, une résolution peut être adoptée pour faire l'ensemble des choses suivantes :

1. Créer un nouvel office exerçant sa compétence sur des zones qui relevaient des compétences distinctes des offices existants, qu'il y en ait deux ou plus, relativement à des bassins hydrographiques limitrophes.
2. Dissoudre les offices existants.
3. Désigner les municipalités participantes pour le nouvel office.
4. Désigner la zone sur laquelle le nouvel office exercera sa compétence.

Majorité des deux tiers des voix

(4.1) L'adoption de la résolution visée au paragraphe (4) nécessite la majorité des deux tiers des voix des représentants présents à l'assemblée.

Approbation du ministre

(4.2) La municipalité ou les offices qui ont convoqué une assemblée en vertu du paragraphe (1) soumettent la résolution adoptée conformément au paragraphe (4.1) à l'approbation du ministre. Celui-ci peut approuver la résolution avec les modifications et aux conditions qu'il estime appropriées.

Entrée en vigueur de la résolution

(4.3) La résolution entre en vigueur conformément aux conditions de la résolution et à l'approbation du ministre.

(5) Le paragraphe 11 (5) de la Loi est modifié par remplacement de «Lors de la création d'un nouvel office et de la dissolution des offices existants conformément au paragraphe (4)» par «Lors de l'entrée en vigueur de la résolution visant la création d'un nouvel office et la dissolution des offices existants conformément au paragraphe (4.3)» au début du paragraphe.

10 (1) L'article 13.1 de la Loi est modifié par adjonction du paragraphe suivant :

Avis public

(1.1) L'office qui convoque une assemblée en vertu du paragraphe (1) veille à ce que, au moins 14 jours avant l'assemblée, un avis de l'assemblée soit, selon le cas :

- a) publié dans un journal à grande diffusion dans chaque municipalité participante, y compris dans la version électronique du journal, s'il en existe une;
- b) à défaut de journal à grande diffusion dans la municipalité participante, affiché sur un site Web dont est responsable la municipalité et à au moins un endroit bien en vue dans celle-ci.

(2) Le paragraphe 13.1 (2) de la Loi est modifié par suppression de «délégués par les municipalités participantes» à la fin du paragraphe.

(3) Les paragraphes 13.1 (3) et (4) de la Loi sont abrogés.

(4) Le paragraphe 13.1 (7) de la Loi est abrogé.

11 La Loi est modifiée par adjonction de l'intertitre suivant immédiatement avant l'article 14 :

**PARTIE IV
ADHÉSION ET GOUVERNANCE**

12 (1) Le paragraphe 14 (1) de la Loi est abrogé et remplacé par ce qui suit :

Membres de l'office

(1) Le conseil de chaque municipalité participante délègue auprès de l'office un nombre de membres selon la proportion établie par le paragraphe 2 (2) relativement à la nomination de représentants.

(2) Le paragraphe 14 (4) de la Loi est abrogé et remplacé par ce qui suit :

Exigences relatives à la composition de l'office

(4) La nomination de membres à un office doit être conforme aux exigences supplémentaires relatives à la composition de l'office et aux qualités requises des membres prescrites par règlement.

Mandat

(4.1) La durée maximale du mandat d'un membre est de quatre ans, selon ce que détermine le conseil qui nomme le membre.

Idem

(4.2) Le mandat d'un membre commence à la première assemblée de l'office qui suit sa nomination et prend fin immédiatement avant la première assemblée de l'office qui suit la nomination de son successeur.

Remplacement d'un membre

(4.3) Malgré les paragraphes (4.1) et (4.2), un membre peut être remplacé par le conseil de la municipalité participante qui l'a nommé.

Mandat renouvelable

(4.4) Le mandat d'un membre peut être renouvelé.

13 L'article 15 de la Loi est modifié par adjonction du paragraphe suivant :

Assemblées publiques

(3) Toutes les assemblées tenues par l'office sont publiques, sous réserve des exceptions précisées dans les règlements administratifs de l'office.

14 Le paragraphe 17 (1) de la Loi est modifié par remplacement de «À son assemblée initiale, puis à la première assemblée qui se tient chaque année» par «À la première assemblée qui se tient chaque année ou à toute autre assemblée précisée par les règlements administratifs de l'office» au début du paragraphe.

15 Le paragraphe 18 (2) de la Loi est abrogé et remplacé par ce qui suit :

Conseils consultatifs

(2) Un office doit créer les conseils consultatifs exigés par règlement et peut en créer d'autres selon ce qu'il estime approprié.

Idem

(3) Le conseil consultatif doit se conformer aux exigences prescrites par règlement concernant sa composition, ses fonctions, ses pouvoirs, ses obligations, ses activités et ses règles de procédure.

16 La Loi est modifiée par adjonction de l'article suivant :

Règlements administratifs

19.1 (1) Un office peut, par règlement administratif :

- a) traiter des assemblées que tient l'office, y compris prévoir la convocation de ces assemblées et les modalités qui en régissent la tenue, et préciser celles qui peuvent être tenues à huis clos, le cas échéant;
- b) prescrire les pouvoirs et les fonctions du secrétaire-trésorier;
- c) désigner et habilitier des dirigeants afin de signer en son nom des contrats, des ententes et autres documents;
- d) déléguer ses pouvoirs, en totalité ou en partie, au comité de direction à l'exception du pouvoir :
 - (i) de mettre fin à l'emploi du secrétaire-trésorier,
 - (ii) de recueillir des fonds,
 - (iii) de conclure des contrats ou des ententes sauf s'il s'agit de contrats ou d'ententes qui sont nécessairement accessoires aux ouvrages approuvés par l'office;
- e) prévoir la composition de son comité de direction et la création d'autres comités qu'il estime souhaitables et traiter de toute autre question relative à sa gouvernance;
- f) traiter des rôles et responsabilités des membres de l'office, de ses dirigeants et de ses cadres;
- g) exiger que l'administration de l'office soit responsable et transparente, notamment :
 - (i) en prévoyant la conservation des dossiers précisés dans les règlements administratifs et leur mise à la disposition du public,
 - (ii) en établissant un code de conduite pour les membres de l'office,
 - (iii) en adoptant des directives en matière de conflits d'intérêts pour les membres de l'office;
- h) traiter de la gestion des affaires financières de l'office, y compris la réalisation de vérifications et la présentation de rapports sur les finances de l'office;
- i) traiter de l'examen des règlements administratifs exigé par le paragraphe (3) et prévoir la fréquence des examens;
- j) traiter des autres questions prescrites par règlement.

Incompatibilité avec d'autres lois

(2) En cas d'incompatibilité entre un règlement administratif adopté par un office et une disposition de la *Loi sur les conflits d'intérêts municipaux* ou la *Loi sur l'accès à l'information municipale et la protection de la vie privée* ou une disposition d'un règlement pris en vertu de l'une de ces lois, la disposition de la Loi ou du règlement l'emporte.

Examen périodique des règlements administratifs

(3) Aux intervalles réguliers établis par règlement administratif, l'office procède à l'examen de l'ensemble de ses règlements administratifs pour vérifier, notamment, leur conformité aux lois visées au paragraphe (2) ou à toute autre loi pertinente.

Règlements administratifs mis à la disposition du public

(4) L'office met ses règlements administratifs à la disposition du public de la manière qu'il estime appropriée.

Disposition transitoire

(5) L'office adopte les règlements administratifs visés au présent article qui sont nécessaires à sa bonne administration :

- a) dans le cas d'un office qui a été créé au plus tard le jour de l'entrée en vigueur de l'article 16 de l'annexe 4 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*, dans l'année qui suit ce jour;
- b) dans le cas d'un office qui a été créé après le jour de l'entrée en vigueur de l'article 16 de l'annexe 4 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*, dans l'année qui suit le jour de la création de l'office.

Idem

(6) Malgré l'abrogation de l'article 30 par l'article 28 de l'annexe 4 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*, un règlement pris par un office en vertu de cet article demeure en vigueur après l'abrogation jusqu'au premier en date des jours suivants :

- a) le jour qui tombe un an après le jour de l'entrée en vigueur de l'article 16 de l'annexe 4 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*;
- b) le jour où le règlement est abrogé par l'office.

Directive du ministre

(7) Le ministre peut, au moyen d'une directive écrite, ordonner à un office d'adopter ou de modifier un règlement administratif sur une question visée au paragraphe (1), conformément à la directive et dans le délai qui y est précisé.

Conformité

(8) L'office qui reçoit une directive visée au paragraphe (7) doit s'y conformer dans le délai qui y est précisé.

Règlement en cas de non-conformité

(9) Si l'office n'adopte pas le règlement administratif exigé par la directive visée au paragraphe (7), le ministre peut prendre des règlements relativement aux questions énoncées dans la directive qui s'appliquent à la zone de compétence de l'office.

Idem

(10) En cas d'incompatibilité, les règlements pris par le ministre en vertu du paragraphe (9) l'emportent sur les règlements administratifs que l'office a adoptés.

17 La Loi est modifiée par adjonction de l'intertitre suivant immédiatement avant l'article 20 :

PARTIE V
MISSION, POUVOIRS ET FONCTIONS

18 Le paragraphe 20 (1) de la Loi est modifié par remplacement de «mettre sur pied et réaliser, dans la zone sur laquelle il exerce sa compétence, un programme destiné» par «fournir, dans la zone sur laquelle il exerce sa compétence, des programmes et services destinés».

19 (1) L'alinéa 21 (1) a) de la Loi est modifié par remplacement de «un programme» par «des programmes et services».

(2) L'alinéa 21 (1) f) de la Loi est modifié par insertion de «ou poursuivre la mission de l'office» à la fin de l'alinéa.

(3) L'alinéa 21 (1) m.1) de la Loi est abrogé.

(4) L'alinéa 21 (1) n) de la Loi est modifié par insertion de «ainsi que des particuliers» à la fin de l'alinéa.

(5) L'alinéa 21 (1) q) de la Loi est modifié par insertion de «ou souhaitable pour poursuivre la mission de l'office» à la fin de l'alinéa.

20 (1) La Loi est modifiée par adjonction de l'article suivant :

Programmes et services

21.1 (1) Les programmes et services qu'un office doit ou peut fournir dans sa zone de compétence sont les suivants :

1. Les programmes et services obligatoires qui sont exigés par règlement.
2. Les programmes et services municipaux que l'office accepte de fournir au nom des municipalités situées, en totalité ou en partie, dans sa zone de compétence, conformément au protocole d'entente visé au paragraphe (3).
3. Les autres programmes et services que l'office peut déterminer comme étant souhaitables pour poursuivre sa mission.

Programmes et services obligatoires

(2) Les programmes et services visés à la disposition 1 du paragraphe (1) sont fournis conformément aux normes et aux exigences établies dans les règlements.

Protocole d'entente avec des municipalités

(3) Un office peut conclure un protocole d'entente avec une municipalité située, en totalité ou en partie, dans sa zone de compétence à l'égard de programmes et services que l'office fournira au nom de la municipalité.

Examen périodique du protocole d'entente

(4) L'office et la municipalité qui ont conclu le protocole d'entente visé au paragraphe (3) procèdent à son examen aux intervalles réguliers fixés par le protocole.

Programmes et services municipaux

(5) Les programmes et services qu'un office accepte de fournir au nom d'une municipalité sont fournis conformément aux conditions énoncées dans le protocole d'entente ou dans toute autre entente conclue entre l'office et la municipalité.

Consultation

(6) L'office tient des consultations concernant les programmes et services qu'il fournit selon les modalités et de la manière précisées dans les règlements.

(2) L'article 21.1 de la Loi, tel qu'il est édicté par le paragraphe (1), est modifié par adjonction du paragraphe suivant :

Protocole mis à la disposition du public

(3.1) L'office met le protocole d'entente visé au paragraphe (3) à la disposition du public de la manière énoncée dans le protocole.

21 La Loi est modifiée par adjonction de l'article suivant :**Droits relatifs aux programmes et services**

21.2 (1) Le ministre peut établir des catégories de programmes et services à l'égard desquels un office peut exiger des droits.

Publication de la liste

(2) Le ministre publie dans un document de politique la liste des catégories de programmes et services à l'égard desquels un office peut exiger des droits et distribue ce document à chacun des offices.

Mise à jour de la liste

(3) S'il apporte des modifications à la liste des catégories de programmes et services à l'égard desquels un office peut exiger des droits, le ministre met promptement à jour le document de politique visé au paragraphe (2) et distribue le nouveau document à chacun des offices.

Cas où l'office peut exiger des droits

(4) Un office ne peut exiger des droits pour un programme ou un service qu'il fournit que si le programme ou le service figure sur la liste visée au paragraphe (2).

Montant des droits

(5) Le montant des droits exigés par un office pour un programme ou un service qu'il fournit correspond, selon le cas :

- a) au montant prescrit par règlement;
- b) si aucun montant n'est prescrit, au montant fixé par l'office.

Barème de droits

(6) Chaque office élabore et tient à jour un barème de droits qui indique ce qui suit :

- a) la liste des programmes et services que l'office fournit et à l'égard desquels il exige des droits;
- b) le montant des droits exigés pour chaque programme ou service ou la manière dont le montant des droits est fixé.

Politique relative aux droits

(7) Chaque office adopte une politique écrite à l'égard des droits qu'il exige pour les programmes et services qu'il fournit, et cette politique énonce :

- a) le barème visé au paragraphe (6);
- b) la fréquence à laquelle la politique relative aux droits doit faire l'objet d'un examen par l'office en application du paragraphe (9);
- c) le déroulement d'un examen de la politique relative aux droits, y compris les règles de remise d'avis concernant l'examen et tout changement qui en découle;

- d) les circonstances dans lesquelles une personne peut demander que l'office réexamine des droits qu'il a exigés de la personne et les règles de procédure applicables au réexamen.

Politique mise à la disposition du public

- (8) Chaque office met la politique relative aux droits à la disposition du public de la manière qu'il estime appropriée.

Examen périodique de la politique relative aux droits

- (9) Aux intervalles réguliers qu'il établit, l'office procède à l'examen de sa politique relative aux droits, y compris à l'examen des droits indiqués dans le barème des droits.

Avis de modification

- (10) Si, à la suite d'un examen de la politique relative aux droits ou à tout autre moment, un office désire apporter une modification à la liste des droits indiquée dans le barème de droits, au montant des droits ou à la manière dont ils sont fixés, il en avise le public de la manière qu'il estime appropriée.

Réexamen des droits exigés

- (11) Toute personne qui estime que l'office a exigé des droits qui ne correspondent pas à ceux indiqués dans le barème de droits, ou que les droits indiqués dans le barème de droits sont excessifs compte tenu du service ou du programme pour lequel ils sont exigés, peut demander à l'office, conformément aux règles de procédure énoncées dans la politique relative aux droits, de réexaminer les droits qui ont été exigés.

Pouvoirs de l'office en cas de réexamen

- (12) À l'issue du réexamen des droits qui ont été exigés pour un programme ou un service qu'il a fourni, l'office peut, selon le cas :

- a) ordonner à la personne de payer le montant des droits exigé initialement;
- b) modifier le montant des droits exigé initialement, selon ce qu'il estime approprié;
- c) ordonner qu'aucuns droits ne soient exigés pour le programme ou le service.

22 La Loi est modifiée par adjonction de l'article suivant :**Renseignements exigés par le ministre**

- 23.1** (1) Un office fournit au ministre les renseignements que celui-ci exige au sujet de ses activités, y compris les programmes et services qu'il fournit.

Idem

- (2) Les renseignements sont fournis au moment et de la manière précisés par le ministre.

Publication

- (3) Si le ministre lui enjoint de le faire, l'office publie la totalité ou une partie des renseignements fournis au ministre en application du paragraphe (1) au moment et de la manière précisés par le ministre.

23 Les articles 24, 25 et 26 de la Loi sont abrogés et remplacés par ce qui suit :**Projets exigeant une approbation**

- 24** Avant d'entreprendre un projet auquel sont associées des subventions accordées par le ministre en vertu de l'article 39, l'office en dépose les plans et la description auprès du ministre et obtient son approbation écrite.

Recouvrement des coûts en immobilisations d'un projet

- 25** (1) Un office peut, à l'occasion, fixer le montant des coûts en immobilisations qui seront engagés dans le cadre d'un projet et répartir ce montant entre les municipalités participantes conformément aux règlements.

Avis de répartition

- (2) L'office envoie par écrit un avis de répartition à chacune des municipalités participantes indiquant le montant des coûts en immobilisations pour un projet qui a été attribué à la municipalité participante.

Paiement du montant attribué

- (3) Chaque municipalité participante paie à l'office la partie des coûts en immobilisations pour un projet qui est indiquée dans l'avis de répartition conformément aux exigences qui y sont énoncées et au présent article.

Obtention des fonds

- (4) Chaque municipalité participante peut émettre des débentures pour le financement des coûts en immobilisations pour un projet entrepris par un office.

Fonds obtenus sur plusieurs années

(5) Si l'avis de répartition exige d'une municipalité qu'elle recueille sa partie des coûts en immobilisations pour un projet sur deux années ou plus, la municipalité donne à l'office, dans les 30 jours de la réception de l'avis de répartition, un avis écrit indiquant la façon dont elle payera sa partie des coûts en immobilisations.

Dette exigible

(6) La partie des coûts en immobilisations pour un projet qui est indiquée dans l'avis de répartition envoyé à une municipalité participante est une dette exigible de la municipalité participante envers l'office et, à ce titre, l'office peut en faire exécuter le paiement.

Révision de la répartition des coûts en immobilisations

26 (1) Toute municipalité participante qui reçoit un avis de répartition en application de l'article 25 peut, dans les 30 jours de la réception de l'avis, demander la révision par la Commission des affaires municipales de l'Ontario, ou tout autre organisme prescrit par règlement, de la répartition entre les municipalités participantes des coûts en immobilisations pour le projet concerné.

Idem

(2) La municipalité participante qui présente une demande en vertu du paragraphe (1) envoie une copie de l'avis de demande à l'office et à chacune des autres municipalités participantes de l'office.

Audience

(3) La Commission des affaires municipales de l'Ontario, ou tout autre organisme prescrit par règlement, tient une audience pour réexaminer la répartition des coûts en immobilisations entre les municipalités participantes, notamment pour examiner si la répartition est conforme à l'article 25 et aux règlements et si la partie attribuée à la municipalité est par ailleurs appropriée.

Parties

(4) Sont parties à l'audience la municipalité qui a présenté la demande, l'office, toute autre municipalité participante de l'office qui demande à l'être et toute autre personne choisie par la Commission des affaires municipales de l'Ontario ou tout autre organisme prescrit par règlement.

Suspension de l'exigence de paiement

(5) La municipalité participante qui présente une demande en vertu du présent article n'est pas tenue de payer la partie des coûts en immobilisations qui lui a été attribuée dans l'avis de répartition tant qu'une décision n'a pas été prise à l'égard de la demande.

Avis : délai

(6) La municipalité participante qui présente une demande en vertu du présent article n'est pas tenue de donner l'avis visé au paragraphe 25 (5) avant l'expiration de la période de 30 jours qui suit la prise d'une décision définitive au sujet de la demande.

Pouvoirs à la suite d'une audience

(7) À l'issue de l'audience sur la demande présentée en vertu du présent article, la Commission des affaires municipales de l'Ontario, ou tout autre organisme prescrit par règlement, peut confirmer ou modifier la répartition des coûts en immobilisations entre les municipalités participantes décidée par l'office.

Décision définitive

(8) La décision visée au paragraphe (7) est définitive.

24 (1) L'article 27 de la Loi est abrogé et remplacé par ce qui suit :**Recouvrement des dépenses d'exploitation**

27 (1) Chaque année, l'office fixe ses dépenses d'exploitation pour l'année suivante et les répartit entre les municipalités participantes conformément aux règlements.

Partie fixe pour certaines municipalités

(2) Malgré le paragraphe (1) et sous réserve des règlements, l'office peut établir un montant minimal fixe comme étant la partie des dépenses d'exploitation de l'office qu'une municipalité participante est tenue de payer chaque année. L'office peut attribuer ce montant à la municipalité au lieu de la partie fixée en application du paragraphe (1) au cours d'une année donnée pour laquelle le montant minimal fixe dépasse la partie fixée en application du paragraphe (1).

Avis de répartition

(3) L'office envoie par écrit un avis de répartition à chaque municipalité participante indiquant le montant des dépenses d'exploitation qui a été attribué à la municipalité participante.

Paiement du montant attribué

(4) Chaque municipalité participante paie à l'office la partie des dépenses d'exploitation qui est indiquée dans l'avis de répartition conformément aux exigences qui y sont énoncées et au présent article.

Dette exigible

(5) La partie des dépenses d'exploitation qui est indiquée dans l'avis de répartition envoyé à une municipalité participante est une dette exigible de la municipalité participante envers l'office et, à ce titre, l'office peut en faire exécuter le paiement.

Révision de la répartition des dépenses d'exploitation

27.1 (1) La municipalité qui reçoit un avis de répartition en application de l'article 27 peut, dans les 30 jours de la réception de l'avis, demander la révision par le commissaire aux mines et aux terres, ou tout autre organisme prescrit par règlement, de la répartition.

Idem

(2) La municipalité participante qui présente une demande en vertu du paragraphe (1) envoie une copie de l'avis de demande à l'office et à chacune des autres municipalités participantes de l'office.

Audience

(3) Le commissaire aux mines et aux terres, ou tout autre organisme prescrit par règlement, tient une audience pour réexaminer la répartition des dépenses d'exploitation, y compris pour examiner si la répartition est conforme à l'article 27 et aux règlements et si la partie attribuée à la municipalité est par ailleurs appropriée.

Parties

(4) Sont parties à l'audience la municipalité qui a présenté la demande, l'office, toute autre municipalité participante de l'office qui demande à l'être et toute autre personne choisie par le commissaire aux mines et aux terres ou tout autre organisme prescrit par règlement.

Aucune suspension

(5) La municipalité qui a présenté la demande doit se conformer à l'avis de répartition jusqu'à ce qu'une décision soit prise à l'égard de la demande.

Pouvoirs à la suite d'une audience

(6) À l'issue de l'audience sur la demande présentée en vertu du présent article, le commissaire aux mines et aux terres, ou tout autre organisme prescrit par règlement, peut confirmer ou modifier la répartition des dépenses d'exploitation de l'office entre les municipalités participantes et peut ordonner aux municipalités participantes de payer la partie des dépenses d'exploitation qu'il fixe.

Décision définitive

(7) La décision visée au paragraphe (6) est définitive.

(2) L'article 27.1 de la Loi, tel qu'il est édicté par le paragraphe (1), est modifié par remplacement de «commissaire aux mines et aux terres» par «Tribunal des mines et des terres» partout où figure cette expression.

25 L'article 28 de la Loi est abrogé et remplacé par ce qui suit :

PARTIE VI**RÈGLEMENTATION DES ZONES SUR LESQUELLES LES OFFICES EXERCENT LEUR COMPÉTENCE****Activités interdites : cours d'eau et terres marécageuses**

28 (1) Sous réserve des paragraphes (2), (3) et (4) et de l'article 28.1, nul ne doit exercer les activités suivantes, ou permettre à une autre personne de les exercer, dans la zone de compétence d'un office :

1. Les activités visant le redressement, la modification ou la déviation du chenal existant d'une rivière, d'un ruisseau ou d'un autre cours d'eau, ou la modification d'une terre marécageuse, ou toute ingérence dans ce chenal ou cette terre marécageuse.
2. Les activités d'aménagement dans des secteurs qui se trouvent dans la zone de compétence de l'office et qui sont, selon le cas :
 - i. des terrains dangereux,
 - ii. des terres marécageuses,
 - iii. les vallées d'une rivière ou d'un ruisseau dont les limites doivent être établies conformément aux règlements,
 - iv. des secteurs contigus à la rive du réseau hydrographique des Grands Lacs et du Saint-Laurent ou à un lac intérieur, ou proches de cette rive ou d'un tel lac, sur lesquels les inondations, l'érosion ou les risques liés au

dynamisme des plages peuvent avoir une incidence, ces secteurs étant plus précisément établis ou spécifiés conformément aux règlements,

- v. d'autres secteurs où les activités d'aménagement devraient être interdites ou réglementées, selon ce qui est établi par règlement.

Exception : agrégats

(2) Les interdictions énoncées au paragraphe (1) ne s'appliquent pas aux activités approuvées en application de la *Loi sur les ressources en agrégats* après le 18 décembre 1998, date à laquelle la *Loi de 1998 visant à réduire les formalités administratives* a reçu la sanction royale.

Idem : activités prescrites

(3) Les interdictions énoncées au paragraphe (1) ne s'appliquent pas aux activités ou aux types d'activités prescrits par règlement et exercés conformément aux règlements.

Idem : secteurs prescrits

(4) Les interdictions énoncées au paragraphe (1) ne s'appliquent pas aux activités décrites à ce paragraphe si elles sont exercées :

- a) d'une part, dans un secteur qui est situé dans une zone de compétence d'un office et qui est précisé dans les règlements;
- b) d'autre part, conformément aux conditions précisées par les règlements.

Définitions

(5) Les définitions qui suivent s'appliquent au présent article.

«activité d'aménagement» S'entend au sens des règlements. («development activity»)

«cours d'eau» S'entend au sens des règlements. («watercourse»)

«terrain dangereux» S'entend au sens des règlements. («hazardous land»)

«terre marécageuse» S'entend au sens des règlements. («wetland»)

Permis

28.1 (1) Un office peut délivrer un permis à une personne pour lui permettre d'exercer l'activité qui y est précisée et qui serait autrement interdite par l'article 28 si, de l'avis de l'office, les conditions suivantes sont réunies :

- a) l'activité ne risque pas d'avoir une incidence sur le contrôle des inondations, de l'érosion, du dynamisme des plages ou de la pollution ou sur la protection des terres;
- b) l'activité ne risque pas de donner lieu à des conditions ou des circonstances qui, en cas de risque naturel, pourraient mettre en danger la santé ou la sécurité des personnes ou causer des dommages à des biens ou leur destruction;
- c) les autres exigences prescrites par les règlements sont respectées.

Demande de permis

(2) La personne qui souhaite exercer une activité interdite par l'article 28 dans un secteur situé dans la zone de compétence d'un office peut demander à l'office la délivrance du permis aux termes du présent article.

Idem

(3) La demande de permis doit être faite conformément aux règlements et comprendre les renseignements que ceux-ci exigent.

Conditions

(4) Sous réserve du paragraphe (5), un office peut délivrer un permis avec ou sans conditions.

Audience

(5) L'office ne doit pas refuser une demande de permis ou assortir de conditions un permis sans que le requérant n'ait eu l'occasion d'être entendu par l'office.

Projets d'énergie renouvelable

(6) Dans le cas d'une demande de permis pour exercer des activités d'aménagement liées à un projet d'énergie renouvelable au sens du paragraphe 1 (1) de la *Loi de 2009 sur l'énergie verte* :

- a) d'une part, l'office ne refuse de délivrer le permis que s'il est d'avis que cela est nécessaire pour contrôler la pollution, les inondations, l'érosion ou le dynamisme des plages;

- b) d'autre part, malgré le paragraphe (4), l'office n'assortit le permis de conditions que si elles se rapportent au contrôle de la pollution, des inondations, de l'érosion ou du dynamisme des plages.

Motifs de la décision

(7) Si après avoir tenu une audience, l'office refuse de délivrer un permis ou le délivre assorti de conditions, l'office donne au requérant les motifs écrits de sa décision.

Droit d'interjeter appel

(8) Le requérant qui s'est vu refuser un permis ou qui s'oppose aux conditions dont est assorti le permis peut, dans les 30 jours qui suivent la date à laquelle il reçoit la décision motivée prévue au paragraphe (7), interjeter appel devant le ministre qui peut :

- a) soit refuser la délivrance du permis;
- b) soit ordonner à l'office de délivrer le permis, avec ou sans conditions.

Définition

(9) La définition qui suit s'applique au présent article.

«pollution» S'entend au sens des règlements.

Durée de validité

28.2 Le permis est valide pour une durée établie conformément aux règlements.

Annulation de permis

28.3 (1) Un office peut annuler un permis délivré en vertu de l'article 28.1 s'il est d'avis que les conditions dont est assorti le permis n'ont pas été respectées ou que les circonstances prescrites par règlement existent.

Avis

(2) Avant d'annuler un permis, l'office donne au titulaire du permis un avis de son intention d'annuler le permis indiquant que celui-ci sera annulé à la date indiquée dans l'avis, à moins que le titulaire du permis demande une audience en vertu du paragraphe (3).

Demande d'audience

(3) Dans les 15 jours qui suivent la réception d'un avis d'intention d'annuler un permis envoyé par l'office, le titulaire de permis peut présenter à l'office une demande d'audience par écrit.

Audience

(4) L'office fixe une date pour la tenue de l'audience et tient celle-ci dans un délai raisonnable après la réception de la demande d'audience.

Pouvoirs

(5) À l'issue de l'audience, l'office peut confirmer, annuler ou modifier la décision d'annuler un permis.

Délégation des pouvoirs

28.4 L'office peut, sous réserve des restrictions ou des exigences prescrites par règlement, déléguer n'importe lequel des pouvoirs relatifs à la délivrance ou à l'annulation de permis que lui confèrent la présente loi ou les règlements, ou à la tenue d'audiences relatives aux permis, à son comité de direction ou à une autre personne ou un autre organisme.

26 La Loi est modifiée par adjonction de l'article suivant :**Règlements : activités ayant une incidence sur les richesses naturelles**

28.5 (1) Le lieutenant-gouverneur en conseil peut, par règlement, traiter des activités qui peuvent avoir une incidence sur la protection, la régénération, la mise en valeur ou la gestion des richesses naturelles et qui peuvent être exercées dans les zones de compétence des offices, notamment :

- a) déterminer les activités qui ont ou pourraient avoir une incidence sur la protection, la régénération, la mise en valeur ou la gestion des richesses naturelles pour l'application du règlement;
- b) réglementer ces activités;
- c) interdire ces activités ou exiger d'une personne qu'elle obtienne un permis auprès de l'office concerné pour exercer les activités dans la zone de compétence de cet office.

Idem

(2) Le règlement visé à l'alinéa (1) c) exigeant d'une personne qu'elle obtienne un permis de l'office concerné pour exercer une activité visée au paragraphe (1) peut :

- a) prévoir les demandes à présenter à un office en vue d'obtenir le permis et préciser la manière de présenter la demande, son contenu et sa forme;
- b) prévoir la délivrance, l'expiration, le renouvellement et l'annulation d'un permis;
- c) exiger des audiences relativement à toute question visée aux alinéas a) et b) et préciser la personne ou l'organisme devant qui la question doit être entendue, prévoir des avis et d'autres questions de procédure qui se rapportent à l'audience et prévoir la possibilité d'interjeter appel de toute décision.

Idem

(3) Les règlements pris en vertu du présent article peuvent être restreints à un ou plusieurs offices ou à une ou plusieurs activités.

27 (1) Le paragraphe 29 (1) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) par ce qui suit :

Règlements : usage public des biens d'un office

(1) Le ministre peut, par règlement, traiter des biens-fonds et d'autres biens dont les offices sont propriétaires, notamment :

(2) Les paragraphes 29 (1.1), (1.2) et (2) de la Loi sont abrogés et remplacés par ce qui suit :

Idem

(2) Les règlements pris en vertu du présent article peuvent être restreints à un ou plusieurs offices.

28 L'article 30 de la Loi est abrogé.

29 L'article 30.1 de la Loi est abrogé et remplacé par ce qui suit :

**PARTIE VII
EXÉCUTION ET INFRACTIONS****Nomination d'agents**

30.1 L'office peut nommer des agents afin d'assurer la conformité à la présente loi et aux règlements.

Entrée sans mandat

30.2 (1) L'agent nommé par un office en vertu de l'article 30.1 peut, sous réserve des paragraphes (2) et (3), entrer sur un bien-fonds situé dans la zone de compétence de l'office pour déterminer la conformité au paragraphe 28 (1), à un règlement pris en vertu du paragraphe 28 (3) ou à l'article 28.5 ou aux conditions dont est assorti un permis délivré en vertu de l'article 28.1 ou en vertu d'un règlement pris en vertu de l'alinéa 28.5 (1) c).

Interdiction d'entrer dans des bâtiments

(2) Le pouvoir d'entrer sur un bien-fonds prévu au paragraphe (1) n'autorise pas l'entrée dans un logement ou un autre bâtiment situé sur le bien-fonds.

Heures d'entrée

(3) Le pouvoir d'entrer sur un bien-fonds prévu au paragraphe (1) peut être exercé à toute heure raisonnable.

Pouvoirs de l'agent

(4) L'agent qui entre sur un bien-fonds en vertu du paragraphe (1) peut faire l'une ou l'autre des choses suivantes :

1. Examiner toute chose qui se rapporte à l'inspection.
2. Effectuer des tests, prendre des mesures, prélever des spécimens ou des échantillons, installer de l'équipement et faire des enregistrements, notamment photographiques, qui peuvent se rapporter à l'inspection.
3. Poser à l'occupant du bien-fonds des questions qui se rapportent à l'inspection.

Aucun recours à la force

(5) Le paragraphe (1) n'a pas pour effet d'autoriser le recours à la force.

Experts

(6) L'agent qui entre sur un bien-fonds en vertu du présent article peut être accompagné et assisté de personnes qui possèdent les connaissances, les compétences ou l'expertise requises aux fins de l'inspection.

Perquisitions**Perquisition avec mandat**

30.3 (1) Un agent peut obtenir un mandat de perquisition en vertu de la partie VIII de la *Loi sur les infractions provinciales* à l'égard d'une infraction à la présente loi.

Aide

(2) Le mandat peut autoriser toute personne qui y est précisée à accompagner l'agent et à l'aider dans l'exécution du mandat.

Perquisition sans mandat

(3) S'il a des motifs raisonnables de croire qu'un bien-fonds contient une chose qui fournira des éléments de preuve d'une infraction à la présente loi, mais que le délai nécessaire pour obtenir un mandat entraînerait la perte, l'enlèvement ou la destruction des éléments de preuve, l'agent peut, sans mandat, entrer sur le bien-fonds et y perquisitionner.

Interdiction d'entrer dans des bâtiments

(4) Le pouvoir d'entrer sur un bien-fonds prévu au paragraphe (3) n'autorise pas l'entrée dans un logement ou un autre bâtiment situé sur le bien-fonds.

Ordre de suspension

30.4 (1) Un agent nommé en vertu de l'article 30.1 peut, par ordre, exiger qu'une personne cesse d'exercer une activité ou ne l'exerce pas s'il a des motifs raisonnables de croire qu'elle exerce l'activité, qu'elle l'a exercée ou qu'elle est sur le point de l'exercer et, par conséquent, qu'elle contrevient, selon le cas :

- a) au paragraphe 28 (1) ou à un règlement pris en vertu du paragraphe 28 (3) ou de l'article 28.5;
- b) aux conditions d'un permis délivré en vertu de l'article 28.1 ou en vertu d'un règlement pris en vertu de l'alinéa 28.5 (1) c).

Renseignements à inclure dans l'ordre

(2) L'ordre à la fois :

- a) précise la disposition à laquelle l'agent croit qu'il y a, qu'il y a eu ou qu'il est sur le point d'y avoir contravention;
- b) décrit brièvement la nature et le lieu de la contravention;
- c) indique qu'une audience portant sur l'ordre peut être demandée conformément au présent article.

Signification de l'ordre

(3) L'ordre donné en vertu du présent article est signifié à personne ou par courrier recommandé à la dernière adresse connue de la personne qu'il vise.

Courrier recommandé

(4) L'ordre signifié par courrier recommandé est réputé avoir été signifié le cinquième jour qui suit la date de la mise à la poste, à moins que le destinataire démontre qu'il ne l'a reçu, en toute bonne foi, qu'à une date ultérieure par suite de son absence, d'un accident, d'une maladie ou pour tout autre motif indépendant de sa volonté.

Date d'effet

(5) L'ordre donné en vertu du présent article prend effet lors de sa signification ou à la date ultérieure qui y est précisée.

Droit à une audience

(6) La personne à qui est signifié un ordre en application du présent article peut demander une audience devant l'office ou, si celui-ci l'ordonne, devant son comité de direction, en envoyant à l'office par la poste ou en lui remettant, au plus tard 30 jours après la signification de l'ordre, une demande écrite à cet effet qui inclut un énoncé des motifs de la demande.

Pouvoirs de l'office

(7) À l'issue de l'audience, l'office ou le comité de direction, selon le cas, fait l'une ou l'autre des choses suivantes :

- a) il confirme l'ordre;
- b) il modifie l'ordre;
- c) il révoque l'ordre, avec ou sans conditions.

Motifs de la décision

(8) L'office ou le comité de direction, selon le cas, donne à la personne qui a demandé l'audience les motifs de sa décision par écrit.

Droit d'interjeter appel

(9) Dans les 30 jours de la réception des motifs visés au paragraphe (8), la personne qui a demandé l'audience peut interjeter appel devant le ministre et, après avoir examiné les observations, le ministre peut :

- a) confirmer l'ordre;
- b) modifier l'ordre;
- c) révoquer l'ordre, avec ou sans conditions.

Infractions

30.5 (1) Quiconque contrevient à ce qui suit est coupable d'une infraction :

- a) le paragraphe 28 (1) ou un règlement pris en vertu du paragraphe 28 (3) ou de l'article 28.5;
- b) les conditions dont est assorti un permis délivré en vertu de l'article 28.1 ou en vertu d'un règlement pris en vertu de l'alinéa 28.5 (1) c);
- c) un ordre de suspension donné en vertu de l'article 30.4.

Peines

(2) Quiconque commet une infraction prévue au paragraphe (1) est passible, sur déclaration de culpabilité :

- a) dans le cas d'un particulier :
 - (i) d'une part, d'une amende maximale de 50 000 \$ et d'un emprisonnement maximal de trois mois, ou d'une seule de ces peines,
 - (ii) d'autre part, d'une amende supplémentaire d'au plus 10 000 \$ pour chaque journée ou partie de journée pendant laquelle l'infraction est commise ou se poursuit;
- b) dans le cas d'une personne morale :
 - (i) d'une part, d'une amende maximale de 1 000 000 \$,
 - (ii) d'autre part, d'une amende supplémentaire d'au plus 200 000 \$ pour chaque journée ou partie de journée pendant laquelle l'infraction est commise ou se poursuit.

Bénéfice pécuniaire

(3) Malgré les amendes maximales énoncées aux alinéas (2) a) et b), le tribunal qui déclare une personne coupable d'une infraction visée à l'alinéa (1) a) ou b) peut augmenter l'amende qu'il lui impose d'un montant équivalant à celui du bénéfice pécuniaire qu'elle a acquis ou qui lui est revenu par suite de la commission de l'infraction.

Contravention à un règlement pris en vertu de l'art. 29

(4) Quiconque contrevient à un règlement pris en vertu de l'article 29 est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 1 000 \$.

Entrave au travail d'un agent

(5) Quiconque empêche ou gêne l'entrée d'un agent sur un bien-fonds visée à l'article 30.2 ou 30.3, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Prescription

30.6 Aucune instance à l'égard d'une infraction prévue au paragraphe 30.5 (1), (4) ou (5) ne peut être introduite plus de deux ans après le jour où l'infraction est portée pour la première fois à l'attention d'un agent nommé en vertu de l'article 30.1.

Ordonnance de réhabilitation

30.7 (1) Outre les autres recours ou peines prévus par la loi, le tribunal qui déclare une personne coupable d'une infraction prévue à l'alinéa 30.5 (1) a) ou b) peut lui ordonner de faire ce qui suit :

- a) enlever tout aménagement à ses frais et dans le délai raisonnable que fixe le tribunal;
- b) prendre les mesures que le tribunal lui enjoint de prendre, dans le délai que peut préciser le tribunal, pour réparer les dommages qui résultent de la commission de l'infraction ou qui y sont liés de quelque façon que ce soit ou pour réhabiliter ce qui a été ainsi endommagé.

Non-conformité

(2) Si une personne ne se conforme pas à un ordre donné en vertu du paragraphe (1), l'office compétent peut prendre des dispositions pour procéder à l'enlèvement, à la réparation ou à la réhabilitation que devait effectuer une personne en application du paragraphe (1).

Responsabilité pour certains coûts

(3) La personne qui fait l'objet d'un ordre donné en vertu du paragraphe (1) est responsable des coûts de l'enlèvement, de la réparation ou de la réhabilitation pour laquelle un office a pris des dispositions en vertu du paragraphe (2). L'office peut recouvrer les coûts par voie d'action intentée devant un tribunal compétent.

30 La Loi est modifiée par adjonction de l'intertitre suivant immédiatement avant l'article 31:

**PARTIE VIII
QUESTIONS RELATIVES À L'UTILISATION DES BIENS-FONDS ET DE L'EAU**

31 La Loi est modifiée par adjonction de l'intertitre suivant immédiatement avant l'article 36:

**PARTIE IX
DISPOSITIONS DIVERSES**

32 L'article 37 de la Loi est abrogé et remplacé par ce qui suit :

Dépenses par l'office

37 Toutes les sommes versées à un office sous le régime de la présente loi aux fins précisées peuvent être dépensées par l'office de la manière qu'il estime appropriée.

33 (1) L'article 40 de la Loi est abrogé et remplacé par ce qui suit :

Règlements du lieutenant-gouverneur en conseil

40 (1) Le lieutenant-gouverneur en conseil peut, par règlement :

- a) régir la composition des offices de protection de la nature et prescrire des exigences supplémentaires concernant la nomination et les qualités requises des membres des offices;
- b) régir les conseils consultatifs créés en vertu du paragraphe 18 (2), y compris exiger des offices qu'ils créent un ou plusieurs conseils consultatifs et prescrire les exigences à l'égard de la composition, des fonctions, des pouvoirs, des obligations, des activités et des règles de procédure de tout conseil consultatif créé;
- c) régir les programmes et services fournis par les offices en application de la disposition 1 du paragraphe 21.1 (1), exiger que les offices fournissent ces programmes et services et traiter des normes et des exigences qui s'appliquent à ces programmes et services;
- d) régir la répartition des coûts en immobilisations d'un office liés à un projet pour l'application de l'article 25;
- e) régir les révisions prévues aux articles 26 et 27.1, y compris prescrire un organisme pouvant réaliser de telles révisions à la place de la Commission des affaires municipales de l'Ontario ou du commissaire aux mines et aux terres, selon le cas;
- f) régir la répartition des dépenses d'exploitation d'un office pour l'application de l'article 27, prescrire des dépenses comme étant des dépenses d'exploitation pour l'application de l'article 27, régir le montant que les municipalités participantes sont tenues de payer en application de l'article 27, y compris le montant fixe qu'une municipalité participante peut être tenue de payer en application du paragraphe 27 (2), et restreindre ou interdire la répartition de certains types de dépenses d'exploitation;
- g) définir tout terme utilisé, mais non défini, dans la présente loi;
- h) traiter de tout ce qui est nécessaire ou souhaitable aux fins de la bonne application de la présente loi.

Idem

(2) Les normes et exigences établies pour des programmes et services dans un règlement pris en vertu de l'alinéa (1) c) peuvent inclure des normes et des exigences visant à atténuer les impacts du changement climatique et à prévoir l'adaptation à un climat qui évolue, notamment par le renforcement de la résilience.

Règlements du ministre

(3) Le ministre peut, par règlement :

- a) prescrire les questions qui peuvent faire l'objet de règlements administratifs adoptés en vertu de l'alinéa 19.1 (1) j);
- b) traiter du montant des droits que peut exiger un office relativement à un programme ou service, y compris établir les modalités de calcul des droits;
- c) régir les consultations qu'un office doit tenir pour l'application du paragraphe 21.1 (6);
- d) régir les renseignements que les offices doivent fournir au ministre en application de l'article 23.1, y compris la publication de ces renseignements;
- e) régir les interdictions énoncées à l'article 28, notamment :

- (i) prescrire les limites des vallées d'une rivière ou d'un ruisseau pour l'application de la sous-disposition 2 iii du paragraphe 28 (1),
 - (ii) déterminer ou préciser les secteurs pour l'application de la sous-disposition 2 iv du paragraphe 28 (1),
 - (iii) déterminer les secteurs dans lesquels les activités d'aménagement devraient être interdites ou réglementées pour l'application de la sous-disposition 2 v du paragraphe 28 (1),
 - (iv) prescrire les activités ou les types d'activités auxquels les interdictions énoncées au paragraphe 28 (1) ne s'appliquent pas et traiter de la manière dont les activités ou les types d'activités peuvent être exercés ou des circonstances dans lesquelles elles peuvent l'être, ainsi que des conditions ou des restrictions qui s'appliquent à l'activité ou au type d'activités,
 - (v) prescrire les secteurs dans lesquels les interdictions énoncées au paragraphe 28 (1) ne s'appliquent pas et traiter de la manière dont les activités peuvent être exercées dans ces secteurs ou des circonstances dans lesquelles elles peuvent l'être, ainsi que des conditions ou des restrictions qui s'appliquent à l'exercice d'activités dans ces secteurs,
 - (vi) définir «activité d'aménagement», «cours d'eau», «terrain dangereux» et «terre marécageuse» pour l'application de l'article 28;
- f) régir les demandes de permis en vertu de l'article 28.1, la délivrance de permis et le pouvoir des offices de refuser de délivrer un permis, y compris prescrire les exigences à respecter pour la délivrance de permis qui sont visées à l'alinéa 28.1 (1) c), les conditions dont peut être assorti un permis ou les circonstances dans lesquelles un permis peut être annulé en vertu de l'article 28.3 et traiter de la durée de validité d'un permis;
- g) définir «pollution» pour l'application de la Loi;
- h) régir la délégation de pouvoirs par un office visée à l'article 28.4 et prescrire les restrictions ou les exigences qui se rapportent à cette délégation.

(2) L'alinéa 40 (1) e) de la Loi, tel qu'il est édicté par le paragraphe (1), est modifié par remplacement de «commissaire aux mines et aux terres» par «Tribunal des mines et des terres» partout où figure cette expression».

34 La Loi est modifiée par adjonction de l'article suivant :

Incorporation continue

41 Les règlements pris en vertu de la présente loi qui adoptent un document par renvoi peuvent l'adopter dans ses versions successives postérieures à la prise des règlements.

Entrée en vigueur

35 (1) Sous réserve des paragraphes (2) et (3), la présente annexe entre en vigueur le jour où la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques* reçoit la sanction royale.

(2) L'article 13 entre en vigueur le jour qui tombe un an après le jour où la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques* reçoit la sanction royale.

(3) L'article 2, les paragraphes 19 (3) et 20 (2) et les articles 21, 23, 24, 25, 26, 27, 29 et 33 entrent en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

ANNEXE 5

MODIFICATIONS CORRÉLATIVES APPORTÉES À DIVERSES LOIS DÉCOULANT DE L'ÉDICTION DE LA
LOI DE 2017 SUR LE TRIBUNAL D'APPEL DE L'AMÉNAGEMENT LOCAL

LOI SUR LES RESSOURCES EN AGRÉGATS

1 La définition de «Commission» au paragraphe 1 (1) de la *Loi sur les ressources en agrégats* est abrogée.

2 Les dispositions suivantes de la Loi sont modifiées par remplacement de «la Commission» par «le Tribunal d'appel de l'aménagement local» et de «à la Commission» par «au Tribunal d'appel de l'aménagement local» partout où figure cette expression :

1. Les paragraphes 11 (9), (11), (12), (13) et (14).
2. Les paragraphes 12 (1) et (2).
3. Les paragraphes 13 (6) à (9).
4. Les paragraphes 16 (8) à (11).
5. Les paragraphes 18 (5) à (8).
6. Les paragraphes 20 (4), (6), (7) et (8).

3 (1) Les paragraphes 11 (5) à (8) de la Loi sont abrogés et remplacés par ce qui suit :

Renvoi au Tribunal d'appel de l'aménagement local

(5) Le ministre peut renvoyer la demande et les éventuelles objections découlant des formalités en matière d'avis et de consultation qui sont prescrites ou énoncées dans un plan personnalisé au Tribunal d'appel de l'aménagement local pour la tenue d'une audience et peut lui enjoindre de ne statuer que sur les questions précisées dans le document de renvoi.

Parties

(6) Sont parties à l'audience :

- a) l'auteur de la demande;
- b) la personne qui a présenté l'objection;
- c) le ministre, s'il avise le Tribunal d'appel de l'aménagement local de son intention d'être partie;
- d) les autres personnes que précise le Tribunal d'appel de l'aménagement local.

Jonction des audiences

(7) Le Tribunal d'appel de l'aménagement local peut étudier, au cours de la même audience, la demande et les objections qui lui ont été renvoyées en vertu du paragraphe (5) et un appel connexe interjeté devant lui en vertu de la *Loi sur l'aménagement du territoire*.

Pouvoirs du Tribunal d'appel de l'aménagement local

(8) Les règles suivantes s'appliquent si une demande est renvoyée au Tribunal d'appel de l'aménagement local :

1. Le Tribunal d'appel de l'aménagement local peut tenir une audience et enjoindre au ministre de délivrer le permis sous réserve des conditions prescrites et de toute condition additionnelle qu'il précise. Le ministre peut toutefois refuser d'imposer une telle condition s'il est d'avis qu'elle n'est pas compatible avec l'objet de la présente loi.
2. Le Tribunal d'appel de l'aménagement local peut tenir une audience et enjoindre au ministre de refuser de délivrer le permis.
3. S'il est d'avis qu'une objection qui lui est renvoyée n'est pas faite de bonne foi, qu'elle est frivole ou vexatoire ou qu'elle est faite uniquement à des fins dilatoires, le Tribunal d'appel de l'aménagement local peut, sans tenir d'audience, soit de sa propre initiative ou sur la motion d'une partie, refuser d'examiner l'objection. Si l'examen de toutes les objections qui lui sont renvoyées à l'égard d'une demande est refusé de la sorte, il peut enjoindre au ministre de délivrer le permis sous réserve des conditions prescrites.
4. Si toutes les parties à une audience, autres que l'auteur de la demande, se retirent avant le début de l'audience, le Tribunal d'appel de l'aménagement local peut renvoyer la demande au ministre pour qu'il décide s'il doit délivrer ou refuser de délivrer le permis.

(2) Le paragraphe 11 (15) de la Loi est abrogé et remplacé par ce qui suit :

Aucune pétition ni aucun réexamen

(15) L'article 35 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et l'article 21.2 de la *Loi sur l'exercice des compétences légales* ne s'appliquent pas à une ordonnance ni à une décision que le Tribunal d'appel de l'aménagement local a rendues en vertu du présent article.

4 Le paragraphe 13 (10) de la Loi est abrogé et remplacé par ce qui suit :**Aucune pétition ni aucun réexamen**

(10) L'article 35 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et l'article 21.2 de la *Loi sur l'exercice des compétences légales* ne s'appliquent pas à une ordonnance ni à une décision que le Tribunal d'appel de l'aménagement local a rendues en vertu du présent article.

5 Le paragraphe 16 (12) de la Loi est abrogé et remplacé par ce qui suit :**Aucune pétition ni aucun réexamen**

(12) L'article 35 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et l'article 21.2 de la *Loi sur l'exercice des compétences légales* ne s'appliquent pas à une ordonnance ni à une décision que le Tribunal d'appel de l'aménagement local a rendues en vertu du présent article.

6 Le paragraphe 18 (9) de la Loi est abrogé et remplacé par ce qui suit :**Aucune pétition ni aucun réexamen**

(9) L'article 35 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et l'article 21.2 de la *Loi sur l'exercice des compétences légales* ne s'appliquent pas à une ordonnance ni à une décision que le Tribunal d'appel de l'aménagement local a rendues en vertu du présent article.

7 Le paragraphe 20 (9) de la Loi est abrogé et remplacé par ce qui suit :**Aucune pétition ni aucun réexamen**

(9) L'article 35 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et l'article 21.2 de la *Loi sur l'exercice des compétences légales* ne s'appliquent pas à une ordonnance ni à une décision que le Tribunal d'appel de l'aménagement local a rendues en vertu du présent article.

LOI DE 2006 SUR LA CITÉ DE TORONTO

8 Le paragraphe 9 (2) de la *Loi de 2006 sur la cité de Toronto* est modifié par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local».

9 (1) Le paragraphe 114 (7) de la Loi est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 114 (8) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

10 (1) Le paragraphe 115 (10) de la Loi est abrogé et remplacé par ce qui suit :**Exception : appels connexes**

(10) Malgré le paragraphe (6), un appel interjeté en vertu d'une des dispositions énumérées au paragraphe (5) l'est devant le Tribunal d'appel de l'aménagement local, et non devant l'organisme d'appel, si un appel connexe, selon le cas :

- a) a déjà été interjeté devant le Tribunal, mais n'a pas encore fait l'objet d'une décision définitive;
- b) est interjeté devant le Tribunal en même temps que celui interjeté en vertu d'une des dispositions énumérées au paragraphe (5).

(2) Le paragraphe 115 (13) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

(3) Le paragraphe 115 (15) de la Loi est abrogé et remplacé par ce qui suit :**Idem**

(15) Lorsque le Tribunal d'appel de l'aménagement local exerce sa compétence comme le prévoit le paragraphe (14), l'organisme d'appel :

- a) d'une part, lui transmet immédiatement tous les renseignements et documents relatifs à l'appel qu'il a en sa possession;
- b) d'autre part, ne doit prendre aucune autre mesure à l'égard de l'appel.

(4) Le paragraphe 115 (18) de la Loi est abrogé et remplacé par ce qui suit :

Effet du retrait

(18) Si un arrêté est pris en vertu du paragraphe (16) :

- a) d'une part, le Tribunal d'appel de l'aménagement local entend tous les appels auxquels s'applique l'arrêté;
- b) d'autre part, l'organisme d'appel transmet au Tribunal tous les renseignements et documents qu'il a en sa possession relativement à tout appel auquel s'applique l'arrêté.

(5) Le paragraphe 115 (20) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

(6) L'alinéa 115 (21) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) d'autre part, le Tribunal d'appel de l'aménagement local transmet à l'organisme d'appel tous les renseignements et documents qu'il a en sa possession relativement à tout appel auquel s'applique l'arrêté.

11 Le paragraphe 115 (21.2) de la Loi est modifié :

- a) par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local» à la disposition 1;
- b) par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local» à la fin de la disposition 3.

12 (1) Le paragraphe 128 (4) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 128 (5) de la Loi est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal d'appel de l'aménagement local».

(3) Le paragraphe 128 (6) de la Loi est modifié par remplacement de «la Commission» par «le Tribunal».

(4) Le paragraphe 128 (7) de la Loi est modifié par remplacement de «La Commission» par «Le Tribunal» au début du paragraphe.

(5) Le paragraphe 128 (8) de la Loi est modifié :

- a) par remplacement de «la Commission» par «le Tribunal» au sous-alinéa a) (iii);
- b) par remplacement de «la Commission» par «le Tribunal» à l'alinéa b).

13 (1) Le paragraphe 129 (4) de la Loi est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 129 (5) de la Loi est modifié par remplacement de «La Commission» par «Le Tribunal» au début du paragraphe.

(3) Le paragraphe 129 (6) de la Loi est modifié par remplacement de «la Commission» par «le Tribunal».

(4) Le paragraphe 129 (8) de la Loi est modifié par remplacement de «de la Commission» par «du Tribunal».

14 Le paragraphe 250 (2) de la Loi est modifié par remplacement de «l'article 62 de la Loi sur la Commission des affaires municipales de l'Ontario» par «l'article 22 de la Loi de 2017 sur le Tribunal d'appel de l'aménagement local».

15 L'article 265 de la Loi est abrogé.

16 Le paragraphe 285 (8) de la Loi est abrogé et remplacé par ce qui suit :

Présentation d'une requête au T.A.A.L.

(8) Si le ministre a ordonné la conclusion d'un accord en application du paragraphe (7) et que la cité et l'autre municipalité ne parviennent pas à conclure un tel accord dans les 60 jours qui suivent l'ordre du ministre, la cité, l'autre municipalité ou le ministre peut présenter une requête au Tribunal d'appel de l'aménagement local, qui fixe les conditions de l'accord.

17 (1) Le paragraphe 341 (1) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 341 (2) de la Loi est modifié par remplacement de «de la Commission des affaires municipales de l'Ontario, sans une ordonnance de celle-ci» par «du Tribunal, sans une ordonnance de celui-ci».

18 L'alinéa 397 (2) b) de la Loi est modifié par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local».

19 Le paragraphe 453.1 (15) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

LOI SUR LES OFFICES DE PROTECTION DE LA NATURE

20 Le paragraphe 24 (4) de la *Loi sur les offices de protection de la nature* est modifié par remplacement de «le secrétaire de la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

21 (1) Le paragraphe 25 (2) de la Loi est modifié par remplacement de «en demander, par voie de requête, la révision à la Commission des affaires municipales de l'Ontario en avisant le secrétaire de celle-ci et l'office par écrit et par courrier recommandé» par «aviser le Tribunal d'appel de l'aménagement local et l'office par écrit et par courrier recommandé qu'il demande une révision de l'avis de répartition par le Tribunal».

(2) Les paragraphes 25 (3) et (4) de la Loi sont modifiés par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local» partout où figure cette expression.

22 L'article 26 de la Loi, tel qu'il est énoncé à l'article 23 de l'annexe 4 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*, est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local» partout où figure cette expression.

23 L'alinéa 40 (1) e) de la Loi, tel qu'il est énoncé au paragraphe 33 (1) de l'annexe 4 de la *Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques*, est modifié par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local».

LOI SUR LA JONCTION DES AUDIENCES

24 La définition de «autorité constituante» à l'article 1 de la *Loi sur la jonction des audiences* est modifiée par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local».

25 Les paragraphes 4 (1), (2), (4) et (8) de la Loi sont modifiés par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local» partout où figure cette expression.

26 L'annexe de la Loi est modifiée par remplacement de «Commission des affaires municipales de l'Ontario (Loi sur la)» par «Tribunal d'appel de l'aménagement local (Loi de 2017 sur le)».

LOI SUR LE DRAINAGE

27 Le paragraphe 75 (3) de la *Loi sur le drainage* est modifié par remplacement de «les articles 65 et 66 de la *Loi sur la Commission des affaires municipales de l'Ontario* ne s'appliquent pas» par «l'article 25 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* ne s'applique pas» à la fin du paragraphe.

LOI SUR L'EXPROPRIATION

28 (1) La définition de «Commission» au paragraphe 1 (1) de la *Loi sur l'expropriation* est abrogée.

(2) Le paragraphe 1 (1) de la Loi est modifié par adjonction de la définition suivante :

«Tribunal» Le Tribunal d'appel de l'aménagement local. («Tribunal»)

29 Les dispositions suivantes de la Loi sont modifiées par remplacement de «la Commission» par «le Tribunal», de «de la Commission» par «du Tribunal» et de «à la Commission» par «au Tribunal» partout où figurent ces termes :

1. Le paragraphe 9 (4).
2. L'article 11.
3. L'article 24.
4. L'alinéa 26 b).
5. Le paragraphe 27 (6).
6. Les paragraphes 28 (1) et (2).
7. L'article 30.
8. Le paragraphe 31 (1) et les alinéas 31 (2) a) et b).
9. Les paragraphes 34 (1) et (2).

30 Le paragraphe 10 (3) de la Loi est abrogé et remplacé par ce qui suit :

Entrée sur un bien-fonds à des fins d'évaluation

(3) Après avoir signifié l'avis d'expropriation au propriétaire en possession du bien-fonds exproprié, l'autorité expropriante peut, avec le consentement de ce propriétaire, entrer sur le bien-fonds pour l'examiner à des fins d'évaluation. Si elle n'obtient pas du propriétaire l'autorisation d'entrer, l'autorité expropriante peut s'adresser au Tribunal qui peut, par ordonnance, autoriser une telle entrée aux conditions qu'il précise dans l'ordonnance.

31 L'article 15 de la Loi est abrogé et remplacé par ce qui suit :**Augmentation par le Tribunal**

15 Sur demande à cet effet, et après avoir fixé, aux termes du paragraphe 14 (1), la valeur marchande du bien-fonds qu'un propriétaire utilise à des fins d'habitation, le Tribunal adjuge par ordonnance au propriétaire l'indemnité supplémentaire qu'il estime nécessaire afin que le propriétaire puisse se réinstaller dans un logement au moins équivalent au logement exproprié.

32 Le paragraphe 19 (2) de la Loi est abrogé et remplacé par ce qui suit :**Achalandage**

(2) Lorsque le Tribunal fixe l'indemnité, à la demande de l'autorité expropriante ou d'un propriétaire, il peut y inclure un montant n'excédant pas la valeur de l'achalandage, si le bien-fonds est évalué en fonction de son utilisation existante et que, de l'avis du Tribunal, il est très difficile pour le propriétaire de se réinstaller ailleurs.

33 L'article 29 de la Loi est abrogé et remplacé par ce qui suit :**Tribunal d'appel de l'aménagement local****Fonctions du Tribunal**

29 (1) Le Tribunal fixe une indemnité à l'égard de laquelle un avis d'arbitrage lui a été signifié aux termes de l'article 26 ou 27 et, à défaut d'accord, tranche les autres questions qu'il lui incombe de trancher aux termes de la présente loi ou d'une autre loi.

Dossier

(2) Le témoignage oral présenté devant le Tribunal est consigné par écrit et, joint à la preuve écrite et aux objets que le Tribunal reçoit en preuve, il constitue le dossier.

Motifs

(3) Le Tribunal rend une décision, motivée par écrit, qu'il communique aux parties à une demande.

Rapports

(4) Le Tribunal peut rédiger et publier, quand il le juge opportun, un résumé de ses décisions motivées qu'il estime importantes pour le public en général.

34 Le paragraphe 31 (4) de la Loi est abrogé et remplacé par ce qui suit :**Procédure**

(4) L'article 37 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* ne s'applique pas à une ordonnance ou à une décision rendue par le Tribunal en vertu de la présente loi.

35 L'article 32 de la Loi est abrogé et remplacé par ce qui suit :**Dépens, frais**

32 (1) Si le Tribunal fixe le montant auquel un propriétaire a droit en raison d'une expropriation ou d'une demande de dommages-intérêts pour effet préjudiciable et que le montant qu'il accorde représente 85 % ou plus du montant offert par l'autorité légalement compétente, le Tribunal rend une ordonnance prescrivant à celle-ci de verser les dépens, les frais d'évaluation et les autres frais raisonnables effectivement engagés par le propriétaire en vue de fixer l'indemnité qui lui est due. Il peut fixer ces dépens et frais sous forme d'une somme globale ou ordonner que leur fixation soit renvoyée devant un liquidateur des dépens qui les liquide et les accorde conformément au présent paragraphe et aux règles et tarifs prescrits en vertu de l'alinéa 44 d).

Idem

(2) Si le Tribunal fixe le montant auquel un propriétaire a droit en raison d'une expropriation ou d'une demande de dommages-intérêts pour effet préjudiciable subi et que le montant qu'il accorde est inférieur à 85 % du montant offert par l'autorité légalement compétente, le Tribunal peut rendre l'ordonnance qu'il juge appropriée, le cas échéant, à l'égard du versement des dépens et frais. Il peut fixer ces dépens et frais sous forme d'une somme globale ou ordonner que leur fixation soit renvoyée devant un liquidateur des dépens qui les liquide et les accorde conformément à l'ordonnance, aux règles et aux tarifs prescrits en vertu de l'alinéa 44 d) d'une façon analogue à la liquidation des dépens partie-partie.

36 Les paragraphes 33 (2) et (4) de la Loi sont abrogés et remplacés par ce qui suit :**Modifications relatives aux intérêts**

(2) Sous réserve du paragraphe (3), si le Tribunal estime que la fixation de l'indemnité a subi un retard attribuable en tout ou en partie au propriétaire, il peut refuser de lui accorder des intérêts pour la totalité ou une partie de la période pendant laquelle il aurait autrement droit aux intérêts, ou il peut lui accorder des intérêts à un taux inférieur à 6 % et qui paraît raisonnable.

Idem

(4) Si le Tribunal estime que la fixation de l'indemnité a subi un retard attribuable en tout ou en partie à l'autorité expropriante, il peut lui ordonner de verser au propriétaire les intérêts prévus au paragraphe (1) à un taux supérieur à 6 % par an mais qui ne dépasse pas 12 % par an.

LOI SUR LE DÉVELOPPEMENT DU LOGEMENT

37 Le paragraphe 7 (5) de la *Loi sur le développement du logement* est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal d'appel de l'aménagement local».

38 Le paragraphe 13 (4) de la Loi est abrogé et remplacé par ce qui suit :

Approbation non requise

(4) L'article 25 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* ne s'applique pas à une personne morale constituée en vertu du paragraphe (1).

LOI DE 2011 SUR LES SERVICES DE LOGEMENT

39 (1) Le paragraphe 16 (4) de la *Loi de 2011 sur les services de logement* est abrogé et remplacé par ce qui suit :

Requête en approbation

(4) Le conseil gestionnaire de services qui envisage de donner une directive à une municipalité demande, par voie de requête, au Tribunal d'appel de l'aménagement local, d'approuver la directive envisagée en application de l'article 25 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*, et il est réputé, pour l'application de cet article, présenter la requête au nom de la municipalité.

(2) Le paragraphe 16 (5) de la Loi est modifié par remplacement de «Si la Commission des affaires municipales de l'Ontario» par «Si le Tribunal d'appel de l'aménagement local» au début du paragraphe.

LOI DE 2001 SUR LES MUNICIPALITÉS

40 Le paragraphe 6 (2) de la *Loi de 2001 sur les municipalités* est modifié par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local».

41 L'alinéa 179 b) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario lorsqu'elle» par «le Tribunal d'appel de l'aménagement local lorsqu'il».

42 (1) Le paragraphe 180 (1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 180 (2) de la Loi est modifié par remplacement de «La Commission» par «Le Tribunal» au début du paragraphe.

(3) Le paragraphe 180 (3) de la Loi est modifié par remplacement de «la Commission» par «le Tribunal» à la fin du paragraphe.

43 (1) Le paragraphe 181 (1) de la Loi est modifié par remplacement de «La Commission des affaires municipales de l'Ontario» par «Le Tribunal d'appel de l'aménagement local» au début du paragraphe.

(2) Le paragraphe 181 (2) de la Loi est modifié par remplacement de «La Commission» par «Le Tribunal» au début du paragraphe.

44 (1) Le paragraphe 182 (1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 182 (2) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local» dans le passage qui précède l'alinéa a).

(3) Le paragraphe 182 (3) de la Loi est modifié par remplacement de «La Commission» par «Le Tribunal» au début du paragraphe.

45 (1) Le paragraphe 183 (1) de la Loi est modifié par remplacement de «La Commission des affaires municipales de l'Ontario» par «Le Tribunal d'appel de l'aménagement local» au début du paragraphe.

(2) Le paragraphe 183 (2) de la Loi est modifié par remplacement de «Lorsqu'elle rend une ordonnance en vertu de l'article 180, 181 ou 182, la Commission» par «Lorsqu'il rend une ordonnance en vertu de l'article 180, 181 ou 182, le Tribunal» au début du paragraphe.

(3) Le paragraphe 183 (3) de la Loi est modifié par remplacement de «Si la Commission» par «Si le Tribunal» au début du paragraphe.

(4) Le paragraphe 183 (5) de la Loi est abrogé et remplacé par ce qui suit :

Report des instances

(5) Le ministre peut aviser le Tribunal par écrit qu'à son avis une requête présentée au Tribunal en vertu de l'article 180, 181 ou 182 devrait être reportée. Dès lors, les instances qui concernent la requête sont suspendues jusqu'à ce que le ministre avise le Tribunal par écrit qu'il peut les poursuivre.

46 L'article 184 de la Loi est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal d'appel de l'aménagement local».

47 (1) Le paragraphe 186 (1) de la Loi est modifié par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local» dans le passage qui précède l'alinéa a).

(2) La disposition 6 du paragraphe 186 (2) de la Loi est modifiée par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

48 Le paragraphe 205 (4) de la Loi est modifié par remplacement de «L'article 65 de la *Loi sur la Commission des affaires municipales de l'Ontario*» par «L'article 25 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*» au début du paragraphe.

49 (1) Le paragraphe 222 (4) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 222 (5) de la Loi est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal» à la fin du paragraphe.

(3) Le paragraphe 222 (6) de la Loi est modifié par remplacement de «la Commission» par «le Tribunal».

(4) Le paragraphe 222 (7) de la Loi est modifié par remplacement de «La Commission» par «Le Tribunal» au début du paragraphe.

(5) Le paragraphe 222 (8) de la Loi est modifié :

a) par remplacement de «la Commission» par «le Tribunal» dans le sous-alinéa a) (iii);

b) par remplacement de «la Commission» par «le Tribunal» à la fin de l'alinéa b).

50 (1) Le paragraphe 223 (4) de la Loi est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 223 (5) de la Loi est modifié par remplacement de «La Commission» par «Le Tribunal» au début du paragraphe.

(3) Le paragraphe 223 (6) de la Loi est modifié par remplacement de «la Commission» par «le Tribunal».

(4) Le paragraphe 223 (8) de la Loi est modifié par remplacement de «de la Commission» par «du Tribunal».

51 Le paragraphe 323 (8) de la Loi est abrogé et remplacé par ce qui suit :

Présentation d'une requête au T.A.A.L.

(8) Si le ministre a ordonné la conclusion d'un accord en application du paragraphe (7) et que les municipalités visées ne parviennent pas à conclure un tel accord dans les 60 jours qui suivent l'ordre du ministre, l'une ou l'autre des municipalités ou le ministre peut présenter une requête au Tribunal d'appel de l'aménagement local, qui fixe les conditions de l'accord.

52 (1) Le paragraphe 370.1 (1) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 370.1 (2) de la Loi est modifié par remplacement de «de la Commission des affaires municipales de l'Ontario, sans une ordonnance de celle-ci» par «du Tribunal, sans une ordonnance de celui-ci».

53 L'article 399 de la Loi est abrogé.

54 L'alinéa 401 (4) c) de la Loi est modifié par remplacement de «à la Commission des affaires municipales de l'Ontario» par «au Tribunal d'appel de l'aménagement local».

55 (1) Le paragraphe 402 (1) de la Loi est abrogé et remplacé par ce qui suit :

Avis

(1) Sur réception d'une requête de la municipalité qui veut contracter une dette, le Tribunal d'appel de l'aménagement local peut lui ordonner de donner avis de la requête aux personnes et de la manière qu'il fixe.

(2) Le paragraphe 402 (2) de la Loi est modifié par remplacement de «la Commission» par «le Tribunal» à la fin du paragraphe.

(3) Le paragraphe 402 (3) de la Loi est modifié par remplacement de «au secrétaire de la Commission» par «au Tribunal» à la fin du paragraphe.

56 Le paragraphe 407 (2) de la Loi est modifié par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local».

57 Le paragraphe 415 (2) de la Loi est modifié par remplacement de «Sous réserve de l'article 62 de la *Loi sur la Commission des affaires municipales de l'Ontario*» par «Sous réserve de l'article 22 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*» au début du paragraphe.

58 Le paragraphe 469 (1) de la Loi est modifié :

- (a) par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local» à l'alinéa a);
- (b) par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local» à l'alinéa b).

59 (1) Le paragraphe 474.14 (1) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

(2) Le paragraphe 474.14 (2) de la Loi est modifié par remplacement de «la Commission des affaires municipales de l'Ontario» par «le Tribunal d'appel de l'aménagement local».

(3) Le paragraphe 474.14 (3) de la Loi est modifié par remplacement de «L'article 94 de la *Loi sur la Commission des affaires municipales de l'Ontario*» par «L'article 36 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*» au début du paragraphe.

LOI SUR LES ARBITRES MUNICIPAUX

60 L'article 15 de la *Loi sur les arbitres municipaux* est abrogé et remplacé par ce qui suit :

Le T.A.A.L. en tant qu'arbitre unique

15 (1) Malgré les autres dispositions de la présente loi, une municipalité peut désigner le Tribunal d'appel de l'aménagement local en tant qu'arbitre unique pour la municipalité et le Tribunal exerce tous les pouvoirs et toutes les fonctions d'un arbitre officiel.

Instances devant le Tribunal

(2) Sous réserve du paragraphe (3), la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* s'applique aux instances introduites devant le Tribunal en vertu de la présente loi.

Sentences arbitrales

(3) Les dispositions de la présente loi relatives aux appels s'appliquent aux sentences arbitrales que rend le Tribunal en vertu de celle-ci.

LOI SUR LE PATRIMOINE DE L'ONTARIO

61 (1) La définition de «Commission» à l'article 1 de la *Loi sur le patrimoine de l'Ontario* est abrogée.

(2) L'article 1 de la Loi est modifié par adjonction de la définition suivante :

«Tribunal» Le Tribunal d'appel de l'aménagement local. («Tribunal»)

62 Les dispositions suivantes de la Loi sont modifiées par remplacement de «la Commission» par «le Tribunal» et de «à la Commission» par «au Tribunal» partout où figurent ces termes :

1. Les paragraphes 34.2 (1) et (2).
2. L'alinéa 34.3 (1) b).
3. L'alinéa 34.5 (2) b).
4. Les paragraphes 41 (9) et (11).
5. Les paragraphes 42 (6), (9), (13) et (14).
6. L'article 68.2.

63 L'article 25.1 de la Loi est abrogé et remplacé par ce qui suit :

Audiences du T.A.A.L.

25.1 (1) Malgré l'article 3 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*, le Tribunal peut, pour la durée d'un appel interjeté en vertu de la présente loi, nommer un membre de la Commission de révision à un comité du Tribunal chargé d'entendre l'appel.

Idem

(2) Si un membre de la Commission de révision est nommé à un comité du Tribunal en vertu du paragraphe (1) :

- a) d'une part, le membre possède les mêmes pouvoirs qu'un membre du Tribunal qui est nommé aux termes de l'article 3 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et a le droit de participer pleinement à l'audition de l'appel;
- b) d'autre part, pour les besoins de toute démarche subséquente entreprise ou de tout appel subséquent interjeté en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*, toute décision ou ordonnance que rend un comité du Tribunal qui comprend un membre de la Commission de révision nommé en vertu du paragraphe (1) est réputée avoir la même validité qu'une décision ou ordonnance que rend un comité du Tribunal constitué conformément aux exigences de l'article 3 de cette loi.

Conflits

(3) Un membre de la Commission de révision ne peut pas être nommé à un comité du Tribunal en vertu du paragraphe (1) s'il a participé à une audience que la Commission de révision a tenue au sujet du bien faisant l'objet de l'appel qu'entend le comité.

64 L'article 34.1 de la Loi est abrogé et remplacé par ce qui suit :

Appels interjetés devant le Tribunal

34.1 (1) Si le conseil d'une municipalité fait droit à une demande à certaines conditions en vertu du sous-alinéa 34 (2) a) (i.1) ou qu'il en rejette une en vertu du sous-alinéa 34 (2) a) (ii), le propriétaire du bien en cause peut interjeter appel de sa décision devant le Tribunal au plus tard 30 jours après en avoir reçu avis.

Avis d'appel

(2) Le propriétaire du bien qui désire interjeter appel de la décision du conseil d'une municipalité doit, au plus tard 30 jours après avoir reçu avis de la décision, donner un avis d'appel au Tribunal et au secrétaire de la municipalité.

Contenu de l'avis

(3) L'avis d'appel énonce les raisons pour lesquelles l'intéressé s'oppose à la décision du conseil de la municipalité et est accompagné des droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

Audience

(4) Sur réception d'un avis d'appel, le Tribunal fixe les date, heure et lieu de l'audience et en avise le propriétaire du bien et les autres personnes ou organismes qu'il détermine.

Avis d'audience

(5) Le Tribunal donne avis de l'audience de la manière qu'il estime nécessaire.

Pouvoirs du Tribunal

(6) À l'issue de l'audience, le Tribunal peut, par ordonnance :

- (a) rejeter l'appel;
- (b) obliger la municipalité à consentir à la démolition ou à l'enlèvement du bâtiment ou de la construction sans conditions ou aux conditions qu'il précise dans l'ordonnance.

Décisions définitives

(7) Les décisions du Tribunal sont définitives.

65 Le paragraphe 40.1 (4) de la Loi est abrogé et remplacé par ce qui suit :

Appels interjetés devant le Tribunal

(4) Quiconque s'oppose à un règlement municipal adopté en vertu du paragraphe (1) peut interjeter appel devant le Tribunal en donnant au secrétaire de la municipalité, dans les 30 jours qui suivent la date de la publication visée à l'alinéa (3) b), un avis d'appel énonçant l'opposition au règlement municipal et les motifs à l'appui de celle-ci, accompagné des droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

66 (1) Le paragraphe 41 (4) de la Loi est abrogé et remplacé par ce qui suit :

Appels interjetés devant le Tribunal

(4) Quiconque s'oppose au règlement municipal peut interjeter appel devant le Tribunal en donnant au secrétaire de la municipalité, dans les 30 jours qui suivent la date de publication visée à l'alinéa (3) b), un avis d'appel énonçant l'opposition au règlement municipal et les motifs à l'appui de celle-ci, accompagné des droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

(2) Les paragraphes 41 (6) à (8) de la Loi sont abrogés et remplacés par ce qui suit :

Avis d'appel

(6) Si un avis d'appel est donné au secrétaire dans le délai précisé au paragraphe (4), le Tribunal tient une audience publique après en avoir avisé, de la façon qu'il décide, les personnes ou organismes qu'il détermine.

Pouvoirs du Tribunal

(7) Après avoir tenu l'audience, le Tribunal :

- a) soit rejette l'appel;
- b) soit accueille tout ou une partie de l'appel et, selon le cas :
 - (i) abroge le règlement municipal,
 - (ii) modifie le règlement municipal de la façon qu'il décide,
 - (iii) enjoint au conseil de la municipalité d'abroger le règlement municipal,
 - (iv) enjoint au conseil de la municipalité de modifier le règlement municipal conformément à l'ordonnance du Tribunal.

Rejet sans audience sur l'appel

(8) Malgré la *Loi sur l'exercice des compétences légales* et les paragraphes (6) et (7), le Tribunal peut, de sa propre initiative ou sur motion d'une partie, rejeter tout ou partie de l'appel sans tenir d'audience sur celui-ci dans l'un ou l'autre des cas suivants :

- a) le Tribunal est d'avis que, selon le cas :
 - (i) l'avis d'appel ne révèle aucun motif apparent qu'il peut invoquer pour accueillir tout ou partie de l'appel,
 - (ii) l'appel n'est pas interjeté de bonne foi, il est frivole ou vexatoire, ou il est interjeté uniquement en vue de retarder la procédure;
- b) l'appelant n'a pas présenté de motifs écrits à l'appui de l'opposition au règlement municipal;
- c) l'appelant n'a pas acquitté les droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*;
- d) l'appelant n'a pas fourni au Tribunal, dans le délai qu'il a précisé, les renseignements supplémentaires qu'il lui a demandés;
- e) l'appelant n'a participé au processus public prévu à l'article 41.1 pour l'adoption du plan de district de conservation du patrimoine pertinent ni en présentant des observations orales lors d'une réunion publique, ni en présentant des observations écrites au conseil de la municipalité et le Tribunal estime qu'il n'y a aucune explication raisonnable pour ne pas l'avoir fait.

(3) L'alinéa 41 (10) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) soit, s'il est modifié par le Tribunal aux termes du sous-alinéa (7) b) (ii), le règlement municipal, tel qu'il est modifié par le Tribunal, entre en vigueur le jour où il est ainsi modifié;

(4) Le paragraphe 41 (12) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) par ce qui suit :**Idem**

(12) Si, le jour de l'entrée en vigueur du paragraphe 2 (25) de l'annexe F de la *Loi de 2002 sur l'efficacité du gouvernement*, une municipalité a adopté un règlement municipal désignant un district de conservation du patrimoine et que le Tribunal a terminé ou commencé une audience visée au paragraphe (6) du présent article, tel qu'il existait avant ce jour, mais qu'il n'a pas encore prononcé d'ordonnance officielle :

67 Les paragraphes 42 (7) et (8) de la Loi sont abrogés et remplacés par ce qui suit :**Avis d'appel**

(7) Pour interjeter appel devant le Tribunal, le propriétaire donne un avis d'appel au Tribunal au plus tard 30 jours après avoir reçu, selon le cas, un avis portant que le conseil rejette sa demande ou le permis, assorti de conditions.

Pouvoirs du Tribunal

(8) Le Tribunal entend l'appel et, selon le cas :

- a) rejette l'appel;
- b) ordonne que le permis soit délivré, assorti des conditions qu'il précise dans son ordonnance, le cas échéant.

68 Le paragraphe 68.3 (1) de la Loi est modifié par remplacement de «que prend une municipalité, le ministre, la Commission de révision ou la Commission aux termes de la présente loi» par «que prend une municipalité, le ministre, la Commission de révision ou le Tribunal aux termes de la présente loi» à la fin du paragraphe.

LOI DE 1994 SUR LA PLANIFICATION ET L'AMÉNAGEMENT DU TERRITOIRE DE L'ONTARIO

69 L'alinéa 7 (4) b) de la *Loi de 1994 sur la planification et l'aménagement du territoire de l'Ontario* est abrogé et remplacé par ce qui suit :

- b) soit renvoyer la question au Tribunal d'appel de l'aménagement local, afin qu'il tienne une audience au sujet de la modification proposée et fasse une recommandation écrite à son égard;

70 L'alinéa 8 (1) b) de la Loi est abrogé et remplacé par ce qui suit :

- b) soit renvoyer la question au Tribunal d'appel de l'aménagement local, afin qu'il tienne une audience au sujet de la modification proposée et fasse une recommandation écrite à son égard;

71 L'article 10 de la Loi est abrogé et remplacé par ce qui suit :

Audience du T.A.A.L.

10 (1) Si la question est renvoyée au Tribunal d'appel de l'aménagement local, celui-ci tient une audience.

Avis

(2) Un avis de l'audience est donné, de la façon que le Tribunal décide, aux personnes et organismes qu'il détermine, et le Tribunal recommande, par écrit, que le ministre approuve la modification proposée en totalité ou en partie, y apporte des changements et l'approuve ainsi changée, ou la refuse en totalité ou en partie, en motivant sa recommandation.

72 L'article 11 de la Loi est modifié par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local».

LOI SUR LES RESSOURCES EN EAU DE L'ONTARIO

73 La définition de «Commission» au paragraphe 1 (1) de la *Loi sur les ressources en eau de l'Ontario* est abrogée.

74 (1) Le paragraphe 54 (5) de la Loi est abrogé et remplacé par ce qui suit :

Demande adressée au T.A.A.L.

(5) Si un enregistrement visé à la partie II.2 de la *Loi sur la protection de l'environnement* est en vigueur ou si une autorisation environnementale a été délivrée à l'égard d'une station d'épuration des eaux d'égout qui est établie ou agrandie, ou qui le sera, par une municipalité dans ou jusque dans une autre municipalité ou un territoire non érigé en municipalité, la municipalité qui entreprend l'établissement ou l'agrandissement peut, avant de commencer les travaux, demander au Tribunal d'appel de l'aménagement local de rendre une ordonnance :

- a) pour fermer et désaffecter, de façon temporaire ou permanente, une voie publique, un chemin ou un emplacement affecté à une voie publique afin de permettre l'établissement ou l'agrandissement et de céder le titre de la voie publique, du chemin ou de l'emplacement à la municipalité, ou pour pourvoir à l'ouverture d'une autre voie publique, d'un autre chemin ou d'un autre emplacement en remplacement de ceux qui sont fermés et désaffectés; le paragraphe 88 (2) de la *Loi sur l'enregistrement des actes* ne s'applique pas;
- b) pour mettre fin aux restrictions en matière de construction, aux servitudes reconnues en equity ou aux autres restrictions du domaine ou du droit de quiconque sur des biens-fonds sur lesquels peut s'effectuer l'établissement ou l'agrandissement; ces restrictions et servitudes n'auront alors plus d'effet et l'ordonnance sera enregistrée en vertu de la *Loi sur l'enregistrement des actes*;
- c) pour fixer l'indemnisation accordée par suite de la prise de possession de biens-fonds ou des dommages causés à ceux-ci en raison de la construction, de l'entretien ou de l'exploitation de l'établissement ou de l'agrandissement.

Un avis de la demande est donné de la façon que fixe le Tribunal d'appel de l'aménagement local au secrétaire de la municipalité ou la station d'épuration des eaux d'égout doit être établie ou agrandie, aux secrétaires des autres municipalités et aux autres personnes que le Tribunal peut préciser.

(2) Le paragraphe 54 (12) de la Loi est abrogé et remplacé par ce qui suit :

Pouvoirs du T.A.A.L.

(12) Le Tribunal d'appel de l'aménagement local peut assortir l'ordonnance visée au paragraphe (11) des restrictions, limitations et conditions qui lui semblent nécessaires ou opportunes relativement à l'usage du bien-fonds aux fins de l'agrandissement de la station d'épuration des eaux d'égout. Ces conditions ne doivent pas être incompatibles avec les règlements d'application de la partie II.2 de la *Loi sur la protection de l'environnement* ou les conditions de l'autorisation environnementale.

75 Les dispositions suivantes de la Loi sont modifiées par remplacement de «la Commission» par «le Tribunal d'appel de l'aménagement local», de «à la Commission» par «au Tribunal d'appel de l'aménagement local» et de «de la Commission» par «du Tribunal d'appel de l'aménagement local» partout où figurent ces termes :

- 1. Les paragraphes 54 (8) et (11).**
- 2. Le paragraphe 55 (4).**
- 3. Le paragraphe 62 (2).**
- 4. Le paragraphe 63 (5).**
- 5. Le paragraphe 74 (13).**

76 Le paragraphe 55 (5) de la Loi est abrogé et remplacé par ce qui suit :

Pouvoirs du T.A.A.L.

(5) Le Tribunal d'appel de l'aménagement local peut assortir l'ordonnance visée au paragraphe (4) des restrictions, limitations et conditions qui lui semblent nécessaires ou opportunes relativement à l'usage du bien-fonds aux fins de l'établissement ou de l'agrandissement de la station de traitement des eaux d'égout. Ces conditions ne doivent pas être incompatibles avec les règlements d'application de la partie II.2 de la *Loi sur la protection de l'environnement* ou les conditions de l'autorisation environnementale.

77 L'article 57 de la Loi est abrogé et remplacé par ce qui suit :

Pouvoirs du T.A.A.L. : révision relative à une station d'épuration des eaux d'égout d'une municipalité

57 Le Tribunal d'appel de l'aménagement local peut faire enquête, tenir audience et prendre une décision relativement à la demande que lui soumet une autre personne ou qui lui est soumise en leur nom, et dans laquelle elle se plaint que la municipalité qui construit, entretient ou exploite une station d'épuration des eaux d'égout ou qui en a le contrôle :

- a) soit a fait défaut de prendre les mesures qu'exige une loi, un règlement pris en application d'une loi, un arrêté, une ordonnance, une directive ou un accord conclu avec la municipalité;
- b) soit prend ou a pris ces mesures de façon inacceptable,

et que de ce fait, elle a causé des détériorations, une perte, des préjudices ou des dommages à des biens. Le Tribunal d'appel de l'aménagement local, en ce qui concerne une telle plainte, peut rendre une ordonnance, prendre la décision et tirer les conclusions qui lui semblent équitables.

78 Le paragraphe 74 (11) de la Loi est abrogé et remplacé par ce qui suit :

Fixation de l'indemnité

(11) Sous réserve du présent article, si l'Agence et la personne qui réclame une indemnité ne parviennent pas à un accord sur le montant de celle-ci, seul le Tribunal d'appel de l'aménagement local en fixe le montant. La *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*, à l'exclusion de l'article 36, s'applique à l'instance dans la mesure du possible.

LOI SUR L'AMÉNAGEMENT DU TERRITOIRE

79 (1) La définition de «Commission des affaires municipales» au paragraphe 1 (1) de la *Loi sur l'aménagement du territoire* est abrogée.

(2) Le paragraphe 1 (1) de la Loi est modifié par adjonction de la définition suivante :

«Tribunal» Le Tribunal d'appel de l'aménagement local. («Tribunal»)

80 Les dispositions suivantes de la Loi sont modifiées par remplacement de «la Commission des affaires municipales» par «le Tribunal» partout où figure ce terme :

- 1. L'article 2.**
- 2. Le paragraphe 3 (5).**
- 3. Le paragraphe 8.1 (22).**
- 4. Les paragraphes 12 (6) et (7).**
- 5. Les paragraphes 14.3 (3) et (4).**
- 6. Les paragraphes 14.6 (4) et (5).**
- 7. Les paragraphes 17 (24), (36), (40.3) et (43) et la disposition 2 du paragraphe 17 (44.2).**
- 8. Les paragraphes 22 (6.4), (6.5), (7) et (7.4).**
- 9. Le paragraphe 23 (5).**

10. Le paragraphe 33 (18).

11. Les paragraphes 34 (10.7) et (10.8), la disposition 2 du paragraphe 34 (24.2) et les paragraphes 34 (31) et (32).

12. Les paragraphes 41 (4) et (4.3).

13. Les alinéas 45 (1.0.4) c) et e) et les paragraphes 45 (17.1), (18) et (18.1).

14. Les paragraphes 51 (19.4), (34), (36), (39), (43) et (48), la disposition 2 du paragraphe 51 (52.2) et les paragraphes 51 (54) et (56.2).

15. Les paragraphes 53 (4.2), (14), (16), (19), (29), (32), (33), (36), (37) et (38).

16. L'article 63.

17. L'article 65.

18. Le paragraphe 73 (2).

19. Le paragraphe 75 (3).

81 Les dispositions suivantes de la Loi sont modifiées par remplacement de «droits prescrits aux termes de la *Loi sur la Commission des affaires municipales de l'Ontario*» et de «droits prescrits par la *Loi sur la Commission des affaires municipales de l'Ontario*» par «droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*» partout où figurent ces expressions :

1. Les alinéas 17 (25) c), (37) c) et (41) b).

2. L'alinéa 22 (8) b).

3. Les paragraphes 51 (34), (39), (43) et (48).

4. Les paragraphes 53 (14), (19) et (27).

82 Les dispositions suivantes de la Loi sont modifiées par remplacement de «le secrétaire de la Commission des affaires municipales» par «le Tribunal» partout où figure cette expression :

1. Les paragraphes 17 (30) et (39).

2. Le paragraphe 34 (11.1).

3. Les paragraphes 51 (51) et (55).

83 Le paragraphe 5 (1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

84 (1) Les paragraphes 8.1 (12), (14), (15), (17), (20) et (23) de la Loi sont abrogés et remplacés par ce qui suit :

Exception : appels connexes

(12) Malgré le paragraphe (7), un appel interjeté en vertu d'une des dispositions énumérées au paragraphe (6) l'est devant le Tribunal, et non devant l'organisme d'appel local, si un appel connexe, selon le cas :

a) a déjà été interjeté devant le Tribunal, mais n'a pas encore fait l'objet d'une décision définitive;

b) est interjeté devant le Tribunal en même temps que celui interjeté en vertu d'une des dispositions énumérées au paragraphe (6).

Litige

(14) Une personne peut, par voie de motion pour obtenir des directives, demander au Tribunal de trancher le litige sur la question de savoir si le paragraphe (12) ou (16) s'applique à un appel.

Décision définitive

(15) La décision que rend le Tribunal en vertu du paragraphe (14) est non susceptible d'appel ni de révision.

Idem

(17) Lorsque le Tribunal exerce sa compétence comme le prévoit le paragraphe (16), l'organisme d'appel local :

a) d'une part, lui transmet immédiatement tous les renseignements et documents relatifs à l'appel qu'il a en sa possession;

b) d'autre part, ne doit prendre aucune autre mesure à l'égard de l'appel.

Effet du retrait

(20) Si un arrêté est pris en vertu du paragraphe (18) :

- a) d'une part, le Tribunal entend tous les appels auxquels s'applique l'arrêté;
- b) d'autre part, l'organisme d'appel local visé par l'arrêté transmet au Tribunal tous les renseignements et documents qu'il a en sa possession relativement à tout appel auquel s'applique l'arrêté.

Effet de la révocation

(23) Si un arrêté est pris en vertu du paragraphe (21) :

- a) d'une part, l'organisme d'appel local entend tous les appels auxquels s'applique l'arrêté;
- b) d'autre part, le Tribunal transmet à l'organisme d'appel local tous les renseignements et documents qu'il a en sa possession relativement à tout appel auquel s'applique l'arrêté.

(2) Le paragraphe 8.1 (23.2) de la Loi est modifié :

- a) par remplacement de «la Commission des affaires municipales» par «le Tribunal» à la disposition 1;
- b) par remplacement de «la Commission des affaires municipales» par «le Tribunal» à la fin de la disposition 3.

85 Le paragraphe 12 (5) de la Loi est abrogé et remplacé par ce qui suit :

Répartition non satisfaisante

(5) Le conseil d'une municipalité non satisfait de la répartition peut, dans les 15 jours de la réception de l'avis visé au paragraphe (4), aviser le conseil d'aménagement et le Tribunal de son désir de voir la répartition fixée par le Tribunal.

86 Le paragraphe 14.3 (2) de la Loi est abrogé et remplacé par ce qui suit :

Répartition par le Tribunal

(2) Le conseil d'une municipalité qui n'est pas satisfait de la répartition peut, dans les 15 jours de la réception de l'avis, aviser l'office d'aménagement municipal et le Tribunal de son désir de voir la répartition fixée par le Tribunal.

87 (1) Les alinéas 17 (29) b) et d) de la Loi sont abrogés et remplacés par ce qui suit :

- b) le dossier, l'avis d'appel et les droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* soient transmis au Tribunal dans les 15 jours qui suivent le dernier jour prévu pour le dépôt d'un avis d'appel;

- d) les autres renseignements ou documents que le Tribunal peut exiger à l'égard de l'appel lui soient transmis.

(2) Le paragraphe 17 (29.1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(3) Le paragraphe 17 (42) de la Loi est abrogé et remplacé par ce qui suit :

Dossier

(42) Si elle reçoit un avis d'appel visé au paragraphe (36) ou (40), l'autorité approbatrice fait en sorte que :

- a) un dossier contenant les renseignements et les documents prescrits soit constitué;
- b) le dossier, l'avis d'appel et les droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* soient transmis au Tribunal dans les 15 jours qui suivent le dernier jour prévu pour le dépôt d'un avis d'appel visé au paragraphe (36) ou dans les 15 jours qui suivent le dépôt de l'avis d'appel visé au paragraphe (40), selon le cas;
- c) les autres renseignements ou documents que le Tribunal peut exiger à l'égard de l'appel lui soient transmis.

(4) Le paragraphe 17 (42.1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal» à la fin du paragraphe.

(5) Les paragraphes 17 (44), (45.1), (46.1), (47) et (48) de la Loi sont abrogés et remplacés par ce qui suit :

Audience

(44) Le Tribunal saisi d'un appel tient une audience et en avise, de la façon qu'il décide, les personnes ou organismes publics qu'il détermine.

Idem

(45.1) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (44), le Tribunal peut, de sa propre initiative ou sur motion de la municipalité, de l'autorité approbatrice compétente ou du ministre, rejeter la totalité ou une partie d'un appel sans tenir d'audience s'il est d'avis que la demande à laquelle se rapporte l'appel est considérablement différente de celle dont le conseil était saisi au moment où il a pris sa décision.

Rejet

(46.1) Malgré la *Loi sur l'exercice des compétences légales*, le Tribunal peut rejeter la totalité ou une partie d'un appel après avoir tenu une audience portant sur la motion visée au paragraphe (45) ou (45.1) ou sans en tenir une, selon ce qu'il juge approprié.

Rejet

(47) Si le Tribunal rejette tous les appels interjetés en vertu du paragraphe (24) ou (36) à l'égard de la totalité ou d'une partie d'une décision sans tenir d'audience et que le délai fixé pour le dépôt des avis d'appel est expiré, le Tribunal en avise le secrétaire de la municipalité ou l'autorité approbatrice et :

- a) d'une part, la décision ou la partie de celle-ci qui a fait l'objet de l'appel est définitive;
- b) d'autre part, le plan ou la partie du plan qui a été adopté ou approuvé et à l'égard duquel tous les appels ont été rejetés entre en vigueur à titre de plan officiel ou de partie de plan officiel le lendemain du jour où le dernier appel en suspens a été rejeté.

Idem

(48) Si le Tribunal rejette un appel visé au paragraphe (40) sans tenir d'audience et qu'aucun autre appel n'a été interjeté concernant la même question, le Tribunal en avise l'autorité approbatrice, qui peut alors prendre une décision en vertu du paragraphe (34) à l'égard de la totalité ou d'une partie du plan, selon le cas.

(6) Le paragraphe 17 (54) de la Loi est modifié par remplacement de «de la Commission des affaires municipales» par «du Tribunal».

88 (1) Le paragraphe 22 (6.2) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) par ce qui suit :

Motion : litige

(6.2) Au plus tard 30 jours après qu'un avis négatif est donné aux termes du paragraphe (6.1), la personne ou l'organisme public ou encore le conseil ou le conseil d'aménagement peut, par voie de motion pour obtenir des directives, demander au Tribunal de déterminer :

(2) Les paragraphes 22 (9) et (10) de la Loi sont abrogés et remplacés par ce qui suit :

Dossier

(9) Le secrétaire d'une municipalité ou le secrétaire-trésorier d'un conseil d'aménagement qui reçoit l'avis d'appel visé au paragraphe (7) fait en sorte que :

- a) un dossier contenant les renseignements et les documents prescrits soit constitué;
- b) l'avis d'appel, le dossier et les droits soient transmis au Tribunal dans le délai suivant applicable :
 - (i) dans le cas d'un appel interjeté conformément à la disposition 1 ou 2 du paragraphe (7.0.2), dans les 15 jours suivant le dépôt de l'avis,
 - (ii) dans le cas d'un appel interjeté conformément à la disposition 3 ou 4 du paragraphe (7.0.2), dans les 15 jours suivant le dernier jour prévu pour le dépôt d'un avis d'appel;
- c) l'avis d'appel et le dossier soient transmis à l'autorité approbatrice compétente, que le plan soit ou non soustrait à l'exigence voulant qu'il soit approuvé, dans le délai suivant applicable :
 - (i) dans le cas d'un appel interjeté conformément à la disposition 1 ou 2 du paragraphe (7.0.2), dans les 15 jours suivant le dépôt de l'avis,
 - (ii) dans le cas d'un appel interjeté conformément à la disposition 3 ou 4 du paragraphe (7.0.2), dans les 15 jours suivant le dernier jour prévu pour le dépôt d'un avis d'appel;
- d) les autres renseignements ou documents que le Tribunal peut exiger à l'égard de l'appel lui soient transmis.

Autres renseignements

(10) La personne ou l'organisme public qui dépose un avis d'appel en vertu du paragraphe (7) fournit au Tribunal les renseignements ou documents prescrits et les autres renseignements que celui-ci peut exiger.

(3) Le paragraphe 22 (11.4) de la Loi est modifié par remplacement de «de la Commission des affaires municipales» par «du Tribunal».

(4) Les paragraphes 22 (12) et (13) de la Loi sont abrogés et remplacés par ce qui suit :

Retrait des appels

(12) Si tous les appels visés au paragraphe (7) qui sont interjetés conformément à la disposition 1 ou 2 du paragraphe (7.0.2) sont rejetés par le Tribunal sans que celui-ci tienne d'audience ou sont retirés, le Tribunal en avise le conseil ou le conseil d'aménagement et le conseil ou le conseil d'aménagement peut donner avis de la tenue d'une réunion publique ou adopter ou refuser d'adopter la modification demandée, selon le cas.

Idem

(13) Si tous les appels visés au paragraphe (7) qui sont interjetés conformément à la disposition 3 ou 4 du paragraphe (7.0.2) sont rejetés par le Tribunal sans que celui-ci tienne d'audience ou sont retirés, le Tribunal en avise le conseil ou le conseil d'aménagement et la décision du conseil ou du conseil d'aménagement est définitive le jour du retrait ou du rejet du dernier appel en suspens.

89 (1) Les paragraphes 23 (2) et (4) de la Loi sont abrogés et remplacés par ce qui suit :

Audience par le T.A.A.L.

(2) S'il propose de modifier un plan officiel en vertu du paragraphe (1), le ministre peut, et à la demande d'une personne ou d'une municipalité, doit demander au Tribunal de tenir une audience sur la modification proposée. Le Tribunal tient une audience sur l'opportunité d'effectuer la modification.

Avis

(4) Si le ministre a demandé au Tribunal de tenir l'audience prévue au paragraphe (2), l'avis de l'audience est donné aux personnes et de la façon que le Tribunal peut préciser. Le Tribunal entend les observations que quiconque désire présenter devant lui.

(2) Le paragraphe 23 (6) de la Loi est modifié par remplacement de «de la Commission des affaires municipales» par «du Tribunal».

90 Le paragraphe 24 (4) de la Loi est abrogé et remplacé par ce qui suit :

Conformité réputée

(4) Le règlement municipal qui est adopté en application de l'article 34 par le conseil d'une municipalité ou un conseil d'aménagement dans une zone d'aménagement où un plan officiel est en vigueur, est réputé définitivement conforme au plan officiel si, dans le délai fixé pour interjeter appel, aucun appel n'est interjeté ou un appel est interjeté et est retiré ou rejeté ou le règlement municipal est modifié par le Tribunal ou suivant les directives de celui. Toutefois, si le règlement municipal est adopté dans les conditions visées au paragraphe (2), il n'est réputé définitivement conforme au plan officiel à partir de la date où il est adopté que si la modification du plan officiel entre en vigueur.

91 Le paragraphe 28 (12) de la Loi est modifié par remplacement de «de la Commission des affaires municipales» par «du Tribunal».

92 Les paragraphes 33 (4), (5), (10) et (15) de la Loi sont abrogés et remplacés par ce qui suit :

Appel devant le T.A.A.L.

(4) Si le conseil refuse de délivrer le permis ou omet de prendre une décision à ce sujet dans les 30 jours de la réception de la demande par le secrétaire de la municipalité, l'auteur de la demande peut interjeter appel devant le Tribunal, qui entend l'appel et décide soit de rejeter l'appel, soit d'ordonner la délivrance du permis. Sa décision est définitive.

Avis d'appel

(5) La personne qui interjette l'appel visé au paragraphe (4) devant le Tribunal en donne avis aux personnes et de la façon que le Tribunal précise.

Appel devant le T.A.A.L.

(10) Si l'auteur de la demande du permis de démolir visé au paragraphe (6) n'est pas satisfait des conditions de délivrance du permis, il peut en appeler au Tribunal pour modifier ces conditions. Le Tribunal entend l'appel et peut décider soit de rejeter

l'appel soit d'ordonner que les conditions soient modifiées de la façon que le Tribunal estime appropriée. La décision du Tribunal est définitive.

Appel devant le T.A.A.L.

(15) Quiconque a présenté au conseil la demande visée au paragraphe (11) peut en appeler de la décision du conseil au Tribunal dans les 20 jours de la mise à la poste de l'avis de la décision, ou si le conseil refuse ou omet de prendre une décision à ce sujet dans les 30 jours de la réception de l'avis par le secrétaire, l'auteur de la demande peut interjeter appel devant le Tribunal, qui entend l'appel et possède les mêmes pouvoirs que ceux du conseil en vertu du paragraphe (14). La décision du Tribunal est définitive.

93 (1) Le paragraphe 34 (10.5) de la Loi est abrogé et remplacé par ce qui suit :

Motion : litige

(10.5) Au plus tard 30 jours après qu'un avis négatif est donné aux termes du paragraphe (10.4), la personne ou l'organisme public ou encore le conseil peut, par voie de motion pour obtenir des directives, demander au Tribunal de déterminer :

- (a) soit si les renseignements et les documents ont effectivement été fournis;
- (b) soit si l'exigence imposée en vertu du paragraphe (10.2) est raisonnable.

(2) Le paragraphe 34 (18) de la Loi est modifié par remplacement de «de la Commission des affaires municipales» par «du Tribunal».

(3) Le paragraphe 34 (23.1) de la Loi est abrogé et remplacé par ce qui suit :

Retrait des appels

(23.1) Si tous les appels interjetés devant le Tribunal en vertu du paragraphe (19) sont retirés et que le délai d'appel est expiré, le Tribunal en avise le secrétaire de la municipalité. La décision du conseil est définitive.

(4) Le paragraphe 34 (23.2) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(5) Le paragraphe 34 (23.3) de la Loi est modifié par remplacement de «auprès de la Commission des affaires municipales» par «devant le Tribunal».

(6) Le paragraphe 34 (24) de la Loi est abrogé et remplacé par ce qui suit :

Audience et avis

(24) Si un appel est interjeté devant le Tribunal, celui-ci tient une audience et en avise, de la façon qu'il décide, les personnes ou organismes qu'il détermine.

(7) Le paragraphe 34 (25.2) de la Loi est abrogé et remplacé par ce qui suit :

Rejet

(25.2) Malgré la *Loi sur l'exercice des compétences légales*, le Tribunal peut rejeter la totalité ou une partie d'un appel après avoir tenu une audience portant sur la motion visée au paragraphe (25) ou (25.1.1) ou sans en tenir une, selon ce qu'il juge approprié.

(8) Le paragraphe 34 (29.1) de la Loi est modifié par remplacement de «de la Commission des affaires municipales» par «du Tribunal».

(9) Les paragraphes 34 (33) et (34) de la Loi sont abrogés et remplacés par ce qui suit :

Avis et audience

(33) Le Tribunal peut :

- a) se dispenser ou dispenser quiconque de donner avis d'une motion visée au paragraphe (32) ou exiger qu'un tel avis soit donné selon ce qu'il estime approprié;
- b) rendre une ordonnance en vertu du paragraphe (31) après avoir tenu ou non une audience portant sur la motion, selon ce qu'il estime approprié.

Avis

(34) Malgré l'alinéa (33) a), le Tribunal donne avis de la motion visée au paragraphe (32) à toute personne ou à tout organisme public qui dépose auprès de lui une demande écrite exigeant d'être avisé si une motion est présentée.

94 Les paragraphes 36 (3.1), (3.3) et (3.4) de la Loi sont abrogés et remplacés par ce qui suit :

Questions d'intérêt provincial

(3.1) Si un appel est interjeté devant le Tribunal en vertu du paragraphe (3), le ministre peut, s'il estime que le règlement municipal porte ou portera vraisemblablement atteinte à une question d'intérêt provincial, en aviser le Tribunal par écrit au plus tard 30 jours avant le jour qu'il fixe pour l'audition de l'appel. Il précise alors :

- a) d'une part, la ou les parties du règlement municipal qui portent ou porteront vraisemblablement atteinte à l'intérêt provincial;
- b) d'autre part, ce sur quoi il se fonde généralement pour estimer qu'il est ou sera vraisemblablement porté atteinte à une question d'intérêt provincial.

Aucune ordonnance ne doit être rendue

(3.3) Si le Tribunal reçoit un avis du ministre en vertu du paragraphe (3.1) et a rendu une décision à l'égard du règlement municipal, il ne doit pas rendre d'ordonnance en vertu du paragraphe (3) à l'égard de la ou des parties de ce règlement précisées dans l'avis.

Mesure prise par le lieutenant-gouverneur en conseil

(3.4) Le lieutenant-gouverneur en conseil peut confirmer, modifier ou annuler la décision du Tribunal à l'égard de la ou des parties du règlement municipal précisées dans l'avis et, ce faisant, peut abroger tout ou partie du règlement municipal ou le modifier de la façon qu'il fixe.

95 Le paragraphe 38 (6.1) de la Loi est abrogé et remplacé par ce qui suit :**Appel**

(6.1) Si la période où le règlement municipal d'interdiction provisoire était en vigueur a pris fin et que le conseil a adopté le règlement municipal en application de l'article 34 au terme de la révision ou de l'examen prévu au cours du délai précisé dans le règlement municipal d'interdiction provisoire, mais qu'un appel est interjeté du règlement municipal en vertu du paragraphe 34 (19), le règlement municipal d'interdiction provisoire reste en vigueur comme s'il n'avait pas pris fin jusqu'à la date à laquelle le Tribunal rend une ordonnance ou jusqu'à la date à laquelle le Tribunal délivre l'avis visé au paragraphe 34 (23.1), à moins que le règlement municipal d'interdiction provisoire ne soit abrogé.

96 Le paragraphe 41 (4.2) de la Loi est abrogé et remplacé par ce qui suit :**Litige relatif à la portée de la réglementation du plan d'implantation**

(4.2) Le propriétaire d'un terrain ou la municipalité peut, par voie de motion pour obtenir des directives, demander au Tribunal de trancher le litige sur la question de savoir si une question visée à la disposition 1 ou 2 du paragraphe (4) est assujettie à la réglementation du plan d'implantation.

97 (1) Les paragraphes 42 (10) et (11) de la Loi sont abrogés et remplacés par ce qui suit :**Litiges**

(10) En cas de litige entre la municipalité et le propriétaire d'un terrain portant sur la valeur d'un terrain déterminée aux termes du paragraphe (6.4), l'une ou l'autre partie peut demander au Tribunal de fixer cette valeur. Le Tribunal détermine alors la valeur du terrain, en se conformant le plus possible à la *Loi sur l'expropriation* et si une somme a été versée sous réserve en vertu du paragraphe (12), le Tribunal peut ordonner un remboursement au propriétaire.

Idem

(11) En cas de litige entre la municipalité et le propriétaire d'un terrain portant sur la proportion de terrain ou le versement qui peuvent être exigés en vertu du paragraphe (9), l'une ou l'autre partie peut demander au Tribunal de prendre une décision définitive sur la question.

(2) Le paragraphe 42 (12) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(3) Le paragraphe 42 (13) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

98 (1) L'alinéa 45 (1.0.4) d) de la Loi est abrogé et remplacé par ce qui suit :

- d) si le Tribunal accueille un appel à l'égard du règlement municipal et modifie le règlement, le lendemain du jour où il statue sur l'appel;

(2) Le paragraphe 45 (10) de la Loi est modifié par remplacement de «auprès de la Commission des affaires municipales» par «devant le Tribunal» dans le passage qui précède l'alinéa a).

(3) Les paragraphes 45 (12) et (13) de la Loi sont abrogés et remplacés par ce qui suit :

Appel devant le T.A.A.L.

(12) L'auteur de la demande, le ministre ou une autre personne ou un autre organisme public intéressés peut, dans les 20 jours de la prise de décision du comité, faire appel de celle-ci devant le Tribunal. Pour ce faire, l'appelant dépose auprès du secrétaire-trésorier du comité l'avis d'appel exposant l'opposition à la décision et les motifs à l'appui. Il y joint le montant des droits exigés par le Tribunal qui sont à verser au secrétaire-trésorier en application de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*.

Dossier

(13) Le secrétaire-trésorier du comité, sur réception de l'avis d'appel déposé en vertu du paragraphe (12), envoie promptement au Tribunal, par courrier recommandé, ce qui suit :

- a) l'avis d'appel;
- b) le montant des droits visé au paragraphe (12);
- c) les documents relatifs à l'appel et déposés auprès du comité;
- d) les autres documents que le Tribunal peut exiger;
- e) les autres renseignements et documents prescrits.

(4) Le paragraphe 45 (13.1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal» à la fin du paragraphe.

(5) Les paragraphes 45 (15), (16), (17), (17.2) et (18.1.1) de la Loi sont abrogés et remplacés par ce qui suit :

Retrait des appels interjetés

(15) Si les appels interjetés devant le Tribunal sont retirés, la décision du comité est définitive. Le Tribunal en avise le secrétaire-trésorier du comité qui, à son tour, en avise l'auteur de la demande, et dépose une copie certifiée conforme de la décision auprès du secrétaire de la municipalité.

Audience

(16) Sur appel interjeté devant le Tribunal, celui-ci, sous réserve des paragraphes (15) et (17), tient une audience et en avise l'auteur de la demande, l'appelant, le secrétaire-trésorier du comité et les autres personnes ou organismes publics de la façon que le Tribunal peut préciser.

Rejet de l'appel sans audience

(17) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (16), le Tribunal peut rejeter tout ou partie d'un appel sans tenir d'audience, de sa propre initiative ou sur motion d'une partie, dans l'un ou l'autre des cas suivants :

- a) il est d'avis que, selon le cas :
 - (i) les motifs exposés dans l'avis d'appel ne sont pas suffisamment fondés en matière d'aménagement relatif à l'utilisation du sol pour justifier l'accueil par le Tribunal de la totalité ou d'une partie de l'appel,
 - (ii) l'appel n'est pas interjeté de bonne foi ou il est frivole ou vexatoire,
 - (iii) l'appel est interjeté uniquement pour retarder la procédure,
 - (iv) l'appelant a de façon persistante et sans motifs raisonnables introduit devant le Tribunal des instances qui constituent un abus de procédure;
- b) l'appelant n'a pas présenté de motifs écrits à l'appui de l'appel;
- c) l'appelant n'a pas acquitté les droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*;
- d) l'appelant n'a pas fourni au Tribunal les renseignements supplémentaires que celui-ci a demandés dans le délai qu'il a précisé.

Rejet

(17.2) Le Tribunal peut rejeter la totalité ou une partie d'un appel après avoir tenu une audience relativement à une demande visée au paragraphe (17) ou sans en tenir une, selon ce qu'il juge approprié.

Exception

(18.1.1) Le Tribunal n'est pas tenu de donner l'avis visé au paragraphe (18.1) s'il juge que la modification de la demande initiale est mineure.

(6) Les paragraphes 45 (18.2), (18.3) et (18.4) de la Loi sont modifiés par remplacement de «la Commission» par «le Tribunal» partout où figure ce terme.

(7) Le paragraphe 45 (19) de la Loi est abrogé et remplacé par ce qui suit :

Avis de décision

(19) Si le Tribunal rend une décision au sujet d'un appel, il en envoie une copie à l'auteur de la demande, à l'appelant et au secrétaire-trésorier du comité.

(8) Le paragraphe 45 (20) de la Loi est modifié par remplacement de «de la Commission des affaires municipales» par «du Tribunal».

99 (1) Les paragraphes 51 (19.2), (19.5) et (32) de la Loi sont abrogés et remplacés par ce qui suit :

Motion : litige

(19.2) Au plus tard 30 jours après qu'un avis négatif est donné aux termes du paragraphe (19.1), l'auteur de la demande ou l'autorité approbatrice peut, par voie de motion pour obtenir des directives, demander au Tribunal de déterminer :

- a) soit si les renseignements et les documents ont effectivement été fournis;
- b) soit si l'exigence imposée en vertu du paragraphe (18) est raisonnable.

Détermination définitive

(19.5) La détermination que fait le Tribunal en vertu du paragraphe (19.2) n'est pas susceptible d'appel ni de révision.

Caducité de l'approbation

(32) Lorsqu'elle approuve l'ébauche du plan de lotissement, l'autorité approbatrice peut préciser un délai d'au moins trois ans au-delà duquel l'approbation devient caduque, et l'approbation devient caduque à expiration de ce délai. Toutefois, si un appel est interjeté en vertu du paragraphe (39), le délai précisé au-delà duquel l'approbation devient caduque ne commence qu'à partir de la date à laquelle la décision du Tribunal est rendue à l'égard de l'appel ou de la date de la remise par le Tribunal de l'avis visé au paragraphe (51).

(2) L'alinéa 51 (35) b) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(3) Le paragraphe 51 (35.1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(4) L'alinéa 51 (50) b) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(5) Le paragraphe 51 (50.1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(6) Les paragraphes 51 (52), (52.5) et (52.6) de la Loi sont abrogés et remplacés par ce qui suit :

Audience

(52) Le Tribunal saisi d'un appel tient une audience et en avise, de la façon qu'il décide, les personnes ou organismes publics qu'il détermine.

Avis à l'autorité approbatrice

(52.5) Le Tribunal avise l'autorité approbatrice qu'il lui est donné l'occasion :

- a) d'une part, de réexaminer sa décision à la lumière des renseignements et des documents;
- b) d'autre part, de lui faire une recommandation écrite.

Recommandation de l'autorité approbatrice

(52.6) Le Tribunal tient compte de la recommandation de l'autorité approbatrice s'il la reçoit dans le délai visé au paragraphe (52.4). Il peut le faire, mais n'y est pas tenu, s'il la reçoit plus tard.

(7) Le paragraphe 51 (53) de la Loi est modifié par remplacement du passage qui précède l'alinéa a) et des alinéas a), d) et e) par ce qui suit :

Rejet sans audience

(53) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (52), le Tribunal peut rejeter un appel sans tenir d'audience, de sa propre initiative ou sur motion d'une partie, dans l'un ou l'autre des cas suivants :

a) il est d'avis que, selon le cas :

- (i) les motifs exposés dans l'appel ne sont pas suffisamment fondés en matière d'aménagement relatif à l'utilisation du sol pour justifier l'approbation ou le refus par le Tribunal de l'ébauche du plan de lotissement ou la prise d'une décision concernant les conditions portées en appel,
- (ii) l'appel n'est pas interjeté de bonne foi ou il est frivole ou vexatoire,
- (iii) l'appel est interjeté uniquement en vue de retarder la procédure,
- (iv) l'appelant a de façon persistante et sans motifs raisonnables introduit devant le Tribunal des instances qui constituent un abus de procédure;

(d) l'appelant n'a pas acquitté les droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*;

(e) l'appelant n'a pas fourni au Tribunal les renseignements supplémentaires que celui-ci a demandés dans le délai qu'il a précisé.

(8) Les paragraphes 51 (53.1), (54.1), (56) et (56.1) de la Loi sont abrogés et remplacés par ce qui suit :

Idem

(53.1) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (52), le Tribunal peut, de sa propre initiative ou sur motion de la municipalité, de l'autorité approbatrice compétente ou du ministre, rejeter la totalité ou une partie d'un appel sans tenir d'audience s'il est d'avis que la demande à laquelle se rapporte l'appel est considérablement différente de celle dont le conseil était saisi au moment où il a pris sa décision.

Rejet

(54.1) Malgré la *Loi sur l'exercice des compétences légales*, le Tribunal peut rejeter la totalité ou une partie d'un appel après avoir tenu une audience portant sur la motion visée au paragraphe (53) ou (53.1) ou sans en tenir une, selon ce qu'il juge approprié.

Pouvoirs

(56) Si un appel est interjeté en vertu du paragraphe (34) ou (39), le Tribunal peut prendre toute décision que l'autorité approbatrice aurait pu prendre à l'égard de la demande. Si un appel est interjeté en vertu du paragraphe (43) ou (48), le Tribunal peut prendre une décision concernant les conditions portées en appel.

Approbation définitive

(56.1) Si, dans le cadre d'un appel interjeté en vertu du paragraphe (34) ou (39), le Tribunal a approuvé l'ébauche du plan de lotissement, il peut, par ordonnance, prévoir que l'autorité approbatrice de qui relève le terrain est chargée de donner l'approbation définitive du plan de lotissement pour l'application du paragraphe (58).

100 (1) Le paragraphe 53 (4.1) de la Loi est abrogé et remplacé par ce qui suit :

Motion : litige

(4.1) L'auteur de la demande, le conseil ou le ministre peut, par voie de motion pour obtenir des directives, demander au Tribunal de déterminer :

- a) soit si les renseignements et les documents exigés aux termes des paragraphes (2) et (3), le cas échéant, ont effectivement été fournis;
- b) soit si l'exigence imposée en vertu du paragraphe (3) est raisonnable.

(2) L'alinéa 53 (15) b) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(3) Le paragraphe 53 (16.1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal» à la fin du paragraphe.

(4) L'alinéa 53 (28) b) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(5) Le paragraphe 53 (29.1) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal» à la fin du paragraphe.

(6) Les paragraphes 53 (30), (31), (32.1), (34), (35), (35.1), (39) et (41) de la Loi sont abrogés et remplacés par ce qui suit :

Audience

(30) Le Tribunal saisi d'un appel tient une audience et en avise, de la façon qu'il décide, les personnes ou organismes publics qu'il détermine.

Rejet sans audience

(31) Malgré la *Loi sur l'exercice des compétences légales* et malgré le paragraphe (30), le Tribunal peut rejeter l'appel sans tenir d'audience, de sa propre initiative ou sur motion d'une partie, dans l'un ou l'autre des cas suivants :

a) il est d'avis que, selon le cas :

(i) les motifs exposés dans l'avis d'appel ne sont pas suffisamment fondés en matière d'aménagement relatif à l'utilisation du sol pour justifier l'octroi ou le refus par le Tribunal de l'autorisation provisoire ou la prise d'une décision concernant les conditions portées en appel,

(ii) l'appel n'est pas interjeté de bonne foi ou il est frivole ou vexatoire,

(iii) l'appel est interjeté uniquement en vue de retarder la procédure,

(iv) l'appelant a de façon persistante et sans motifs raisonnables introduit devant le Tribunal des instances qui constituent un abus de procédure;

b) l'appelant n'a pas présenté d'observations orales lors d'une réunion publique ni présenté d'observations écrites au conseil ou au ministre avant qu'une autorisation provisoire ne soit accordée ou refusée et, de l'avis du Tribunal, l'appelant ne fournit pas d'explications raisonnables concernant son omission de présenter des observations;

c) l'appelant n'a pas présenté de motifs écrits à l'appui de l'appel;

d) l'appelant n'a pas acquitté les droits exigés en vertu de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*;

e) l'appelant n'a pas fourni au Tribunal les renseignements supplémentaires demandés par celui-ci dans le délai qu'il a précisé.

Rejet

(32.1) Le Tribunal peut rejeter un appel après avoir tenu une audience relativement à une demande visée au paragraphe (31) ou sans en tenir une, selon ce qu'il juge approprié.

Pouvoirs

(34) Si un appel est interjeté en vertu du paragraphe (14) ou (19), le Tribunal peut prendre toute décision que le conseil ou le ministre, selon le cas, aurait pu prendre à l'égard de la demande initiale. Si un appel est interjeté en vertu du paragraphe (27), le Tribunal peut prendre une décision concernant la ou les conditions portées en appel.

Demande modifiée

(35) Le Tribunal saisi d'un appel peut rendre une décision concernant une demande qui a été modifiée par rapport à la demande initiale si, avant de rendre son ordonnance, un avis écrit est donné aux personnes et aux organismes publics prescrits aux termes du paragraphe (10) ainsi qu'aux personnes ou organismes publics consultés au sujet de la demande initiale conformément au paragraphe (11).

Aucun avis écrit

(35.1) Le Tribunal n'est pas tenu de donner un avis écrit aux termes du paragraphe (35) s'il estime que la modification apportée à la demande initiale est mineure.

Autorisation provisoire

(39) Si, en vertu du paragraphe (34), le Tribunal décide d'accorder une autorisation provisoire, le conseil ou le ministre accorde l'autorisation, mais si des conditions ont été imposées, elle n'est accordée que lorsque le conseil ou le ministre est convaincu que les conditions ont été remplies.

Conditions non remplies

(41) Si des conditions ont été imposées et que, dans le délai d'un an après la remise de l'avis visé au paragraphe (17) ou (24), selon la dernière de ces occurrences, l'auteur de la demande n'a pas rempli ces conditions, la demande d'autorisation est réputée refusée. Toutefois, si un appel a été interjeté en vertu du paragraphe (14), (19) ou (27), la demande d'autorisation n'est pas réputée refusée, du fait que les conditions ne sont pas remplies, jusqu'à expiration d'une période d'un an à compter de la date de l'ordonnance rendue par le Tribunal à l'égard de cet appel ou à compter de la date de l'avis donné par le Tribunal conformément au paragraphe (29) ou (33).

101 Les paragraphes 69 (3) et (4) de la Loi sont abrogés et remplacés par ce qui suit :**Versement sous réserve; appel devant le T.A.A.L.**

(3) Quiconque est tenu de verser des droits prévus au paragraphe (1) pour le traitement d'une demande relative à une question d'aménagement peut verser le montant sous réserve d'en contester le versement et en appeler de la perception ou du montant des droits au Tribunal en lui envoyant un avis écrit d'appel dans les 30 jours du versement des droits.

Audience

(4) Le Tribunal entend l'appel interjeté en vertu du paragraphe (3), le rejette ou ordonne le remboursement à l'appelant de la somme qu'il fixe.

102 L'alinéa 70.2 (2) e) de la Loi est abrogé et remplacé par ce qui suit :

e) énoncer des procédures pour interjeter appel devant le Tribunal en ce qui concerne un permis d'exploitation ou une condition dont un tel permis est assorti, et notamment prescrire les personnes ou organismes publics qui peuvent interjeter appel devant le Tribunal à cet égard;

103 (1) L'alinéa 74 (4) a) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

(2) L'alinéa 74 (6) a) de la Loi est modifié par remplacement de «à la Commission des affaires municipales» par «au Tribunal».

LOI SUR L'AMÉNAGEMENT DES VOIES PUBLIQUES ET DES TRANSPORTS EN COMMUN

104 (1) La définition de «Commission» à l'article 1 de la Loi sur l'aménagement des voies publiques et des transports en commun est abrogée.

(2) L'article 1 de la Loi est modifié par adjonction de la définition suivante :

«Tribunal» Le Tribunal d'appel de l'aménagement local. («Tribunal»)

105 Le paragraphe 14 (2) de la Loi est abrogé et remplacé par ce qui suit :

Décision relative à l'indemnisation

(2) La demande d'indemnisation qui ne donne pas lieu à un accord entre le ministre et l'auteur de la demande est décidée par le Tribunal et d'aucune autre façon. À l'exclusion de l'article 37, la Loi de 2017 sur le Tribunal d'appel de l'aménagement local s'applique, dans la mesure du possible, aux demandes soumises à l'étude du Tribunal.

106 Les dispositions suivantes de la Loi sont modifiées par remplacement de «la Commission» par «le Tribunal» et de «de la Commission» par «du Tribunal» partout où figurent ces termes :

1. Les paragraphes 14 (3) et (4).

2. Les paragraphes 37 (2) et (6).

107 Le paragraphe 16 (2) de la Loi est abrogé et remplacé par ce qui suit :

L'intérêt peut être supprimé ou réduit

(2) Si le Tribunal est d'avis qu'un retard apporté à la décision concernant l'indemnisation ou les dommages-intérêts est imputable, en totalité ou en partie, à la personne qui y a droit, même partiellement, le Tribunal peut refuser d'accorder cet intérêt pour l'ensemble ou une partie de la période où la personne pourrait normalement y avoir droit. Le Tribunal peut également prévoir le versement d'un intérêt à un taux inférieur à 5 % par année, si cela lui paraît juste.

108 Les paragraphes 37 (3) et (4) de la Loi sont abrogés et remplacés par ce qui suit :

Modalités de l'approbation

(3) Le Tribunal peut ordonner que l'avis de la demande d'approbation de la fermeture d'une route aux termes du présent article soit signifié aux personnes qu'il précise, y compris les municipalités et les conseils locaux au sens de la Loi sur les affaires municipales, à la date et de la façon qu'il précise. En outre, le Tribunal peut ordonner que les oppositions formulées à l'égard de la fermeture de la route soient déposées auprès de lui et du ministre dans le délai qu'il fixe.

Pouvoir du Tribunal

(4) Après avoir entendu la demande, le Tribunal peut par ordonnance refuser de donner son approbation ou accorder celle-ci, aux conditions qu'il estime appropriées.

LOI SUR LES JOURS FÉRIÉS DANS LE COMMERCE DE DÉTAIL

109 (1) Les paragraphes 4.3 (1), (3), (4) et (7) de la *Loi sur les jours fériés dans le commerce de détail* sont abrogés et remplacés par ce qui suit :

Appel devant le T.A.A.L.

(1) Quiconque s'oppose à un règlement municipal adopté par le conseil d'une municipalité en vertu de l'article 4 peut en appeler au Tribunal d'appel de l'aménagement local en déposant un avis d'appel auprès de celui-ci lui faisant part de son opposition et des motifs.

Rejet sans audience

(3) S'il estime que les motifs de l'opposition au règlement municipal énoncés dans l'avis d'appel sont insuffisants, le Tribunal peut rejeter l'appel sans tenir d'audience complète. Toutefois, il avise préalablement l'appelant et lui donne l'occasion de faire des observations sur le bien-fondé de l'appel.

Pouvoirs du T.A.A.L.

(4) Le Tribunal d'appel de l'aménagement local peut :

- a) soit rejeter l'appel;
- b) soit rejeter l'appel à la condition que le conseil modifie le règlement municipal de la manière qu'il précise;
- c) soit annuler le règlement municipal.

Art. 35 de la Loi de 2017 sur le Tribunal d'appel de l'aménagement local

(7) L'article 35 de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* ne s'applique pas à l'appel visé au présent article.

(2) Les paragraphes 4.3 (2), (5), (6) et (8) de la Loi sont modifiés par remplacement de «la Commission» par «le Tribunal» et de «de la Commission» par «du Tribunal» partout où figurent ces termes.

LOI DE 1995 SUR LES CHEMINS DE FER D'INTÉRÊT LOCAL

110 (1) Le paragraphe 8 (2) de la *Loi de 1995 sur les chemins de fer d'intérêt local* est abrogé et remplacé par ce qui suit :

Contenu de l'avis

(2) L'avis énonce les motifs du refus, de la suspension ou de la révocation et indique qu'un appel peut être interjeté devant le Tribunal d'appel de l'aménagement local en déposant une demande d'audience auprès de lui et du registrateur dans les 15 jours qui suivent la signification de l'avis aux termes du paragraphe (1).

(2) Les paragraphes 8 (4) et (5) de la Loi sont modifiés par remplacement de «de la Commission des affaires municipales de l'Ontario» par «du Tribunal d'appel de l'aménagement local» partout où figurent ces termes.

(3) Les paragraphes 8 (7) et (8) de la Loi sont abrogés et remplacés par ce qui suit :

Ordonnance

(7) Le Tribunal d'appel de l'aménagement local peut rendre une ordonnance confirmant le refus, la suspension ou la révocation du permis ou rendre toute autre ordonnance compatible avec la présente loi qu'il estime opportune.

Décision définitive

(8) La décision du Tribunal d'appel de l'aménagement local est définitive.

111 L'article 9 de la Loi est abrogé et remplacé par ce qui suit :

Non-application

9 (1) Les articles 5.1 et 21.2 de la *Loi sur l'exercice des compétences légales* ainsi que les articles 35 et 36 et les paragraphes 37 (1) et (3) de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* ne s'appliquent pas aux audiences prévues par la présente loi.

Idem

(2) La partie V de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* ne s'applique pas au Tribunal d'appel de l'aménagement local en ce qui a trait aux chemins de fer d'intérêt local.

ENTRÉE EN VIGUEUR

Entrée en vigueur

112 La présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

NOTE EXPLICATIVE

*La note explicative, rédigée à titre de service aux lecteurs du projet de loi 139, ne fait pas partie de la loi.
Le projet de loi 139 a été édicté et constitue maintenant le chapitre 23 des Lois de l'Ontario de 2017.*

ANNEXE 1

LOI DE 2017 SUR LE TRIBUNAL D'APPEL DE L'AMÉNAGEMENT LOCAL

La *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* est édictée. La nouvelle loi proroge la Commission des affaires municipales de l'Ontario sous le nom de Tribunal d'appel de l'aménagement local et abroge la *Loi sur la Commission des affaires municipales de l'Ontario*.

De nombreuses dispositions de la nouvelle loi et de l'ancienne loi sont les mêmes quant au fond. Des modifications sont apportées quant aux pratiques et aux procédures applicables aux instances dont est saisi le Tribunal. La nouvelle loi énumère les genres de règles que le Tribunal peut établir concernant ses pratiques et ses procédures et précise certains pouvoirs du Tribunal à l'égard des instances. Par exemple, le Tribunal peut exiger la tenue d'une conférence de gestion de la cause dans toute instance afin de cerner les questions soulevées, d'explorer les possibilités de règlement à l'amiable et de préciser des détails administratifs à propos du déroulement des audiences.

La nouvelle loi traite de certains appels qui sont fondés sur des décisions concernant les plans officiels, les règlements municipaux de zonage ou les plans de lotissement rendus dans le cadre de la *Loi sur l'aménagement du territoire*. Elle prévoit qu'une conférence de gestion de la cause est obligatoire dans tous les appels de ce genre; elle traite également des modalités de participation à l'instance offertes aux personnes qui ne sont pas parties à l'appel; enfin, elle énonce des exigences applicables aux cas où l'appel donne lieu à une audience orale.

La nouvelle loi ajoute des pouvoirs de réglementation connexes, notamment celui de prescrire des délais dans le cas des instances concernant les appels dont le Tribunal est saisi dans le cadre de la *Loi sur l'aménagement du territoire*. En outre, elle modernise les formulations utilisées dans l'ancienne loi, élimine certaines dispositions desuètes et abroge les règlements pris en vertu de la *Loi sur la Commission des affaires municipales de l'Ontario*.

ANNEXE 2

LOI DE 2017 SUR LE CENTRE D'ASSISTANCE POUR LES APPELS EN MATIÈRE D'AMÉNAGEMENT LOCAL

L'annexe édicte la *Loi de 2017 sur le Centre d'assistance pour les appels en matière d'aménagement local*, qui crée le Centre d'assistance pour les appels en matière d'aménagement local. Le Centre est une personne morale sans capital-actions ayant pour mission :

- a) d'élaborer et d'administrer un système économique et efficace de prestation de services d'assistance aux personnes admissibles en ce qui concerne les questions régies par la *Loi sur l'aménagement du territoire* qui relèvent de la compétence du Tribunal d'appel de l'aménagement local;
- b) d'établir ses politiques et ses priorités relativement à la prestation des services d'assistance en fonction de ses ressources financières.

Le Centre n'est ni un mandataire ni un organisme de la Couronne. Il est indépendant du gouvernement de l'Ontario, mais il lui rend des comptes (articles 2 et 3).

L'article 4 de l'annexe énonce les services d'assistance que le Centre est tenu de fournir. Ces services doivent être accessibles partout en Ontario (article 6). L'article 5 habilite le Centre à fixer les critères d'admissibilité aux services d'assistance, sous réserve des règlements pris en vertu de la Loi.

Les autres articles traitent de l'organisation de la gouvernance du Centre et des exigences en matière de rapport (articles 7 à 11), des dispositions sur l'immunité (articles 12 et 13), du pouvoir d'adopter des règlements administratifs conféré au Centre (article 14) et des pouvoirs réglementaires connexes du lieutenant-gouverneur en conseil (article 15).

ANNEXE 3

MODIFICATIONS DE LA LOI SUR L'AMÉNAGEMENT DU TERRITOIRE, DE LA LOI DE 2006 SUR LA CITÉ DE TORONTO ET DE LA LOI DE 1994 SUR LA PLANIFICATION ET L'AMÉNAGEMENT DU TERRITOIRE DE L'ONTARIO

L'annexe modifie la *Loi sur l'aménagement du territoire*, la *Loi de 2006 sur la cité de Toronto* et la *Loi de 1994 sur la planification et l'aménagement du territoire de l'Ontario*. Certaines des principales modifications sont exposées ci-après.

L'annexe apporte des modifications corrélatives pour tenir compte de l'édiction de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local*. Celles-ci comprennent le remplacement des mentions de la *Loi sur la Commission des affaires municipales de l'Ontario* et de la Commission des affaires municipales de l'Ontario par des mentions de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et du Tribunal d'appel de l'aménagement local, respectivement. D'autres modifications corrélatives semblables sont apportées à diverses lois à l'annexe 5.

La définition de «plan provincial» au paragraphe 1 (1) de la *Loi sur l'aménagement du territoire* est modifiée de façon à inclure certaines politiques mentionnées dans la *Loi de 2008 sur la protection du lac Simcoe*, la *Loi de 2015 sur la protection des Grands Lacs* et la *Loi de 2006 sur l'eau saine*.

L'article 2.1 de la *Loi sur l'aménagement du territoire* exige actuellement que, lorsqu'elles prennent des décisions qui ont trait à des questions d'aménagement du territoire, les autorités approbatrices et la Commission des affaires municipales de l'Ontario tiennent compte des décisions des conseils municipaux et des autorités approbatrices ayant trait aux mêmes questions, ainsi que des renseignements et documents ayant trait aux mêmes questions que les conseils et les autorités approbatrices ont pris en considération au moment de prendre leurs décisions. L'article est modifié pour limiter son application aux questions d'aménagement du territoire précisées qui ont trait aux plans officiels, aux règlements municipaux de zonage, aux règlements municipaux de restriction provisoire, à la réglementation du plan d'implantation, aux plans de lotissement et aux autorisations.

L'article 3 de la *Loi sur l'aménagement du territoire* régit présentement les déclarations de principes portant sur des questions relatives à l'aménagement municipal. Cet article est modifié pour que les déclarations exigent l'approbation d'un ou de plusieurs ministres ou une décision de leur part relativement à l'une ou l'autre des questions qu'elles prévoient. Cet article est également modifié pour que les déclarations de principes faites en vertu de la *Loi de 2006 sur Metrolinx* ou de la *Loi de 2016 sur la récupération des ressources et l'économie circulaire* ainsi que des politiques et d'autres déclarations de principes prescrites soient réputées des déclarations de principes faites en vertu de l'article 3 de la *Loi sur l'aménagement du territoire*.

À l'heure actuelle, l'article 8.1 de la *Loi sur l'aménagement du territoire* prévoit la création d'un organisme d'appel local pour traiter de certaines questions concernant l'aménagement du territoire. Des modifications sont apportées pour élargir ces questions afin d'inclure les appels et les motions pour obtenir des directives à l'égard des zones de réglementation du plan d'implantation ainsi que les motions pour obtenir des directives à l'égard des autorisations. Des modifications sont également apportées aux règles transitoires s'appliquant aux pouvoirs des organismes d'appel locaux. Des modifications semblables sont apportées à l'article 115 de la *Loi de 2006 sur la cité de Toronto*.

L'article 16 de la *Loi sur l'aménagement du territoire* régit actuellement le contenu des plans officiels. Le nouvel alinéa 16 (1) a.1) exige que les plans officiels contiennent des politiques relatives aux logements abordables et le nouveau paragraphe 16 (14) exige qu'ils contiennent des politiques relatives au changement climatique. L'article est également modifié pour que les plans officiels puissent comprendre des politiques concernant l'aménagement des zones entourant les stations et les arrêts de transport en commun d'un niveau supérieur. Ces politiques exigeraient l'approbation d'une autorité approbatrice. Les décisions prises à l'égard de ces politiques ne peuvent faire l'objet d'un appel que si celui-ci est interjeté par le ministre, et les demandes de modification des politiques ne peuvent être faites qu'avec l'approbation du conseil (voir les paragraphes 17 (36.1.4) à (36.1.7) et 22 (2.1.3)). Lorsque ces politiques sont mises en place, les règlements municipaux de zonage qui précisent les utilisations autorisées, les densités minimales et maximales et, sauf dans certaines circonstances, les hauteurs minimales et maximales, ne peuvent faire l'objet d'un appel que si celui-ci est interjeté par le ministre (voir les paragraphes 34 (19.5) à (19.8)).

Les nouveaux paragraphes 17 (24.0.1) et (36.0.1) de la *Loi sur l'aménagement du territoire* prévoient que les appels concernant l'adoption ou l'approbation d'un plan officiel sont restreints aux questions de conformité aux plans provinciaux et aux déclarations de principes, ou de compatibilité avec eux et, selon le cas, aux questions de conformité avec les politiques des plans officiels des municipalités de palier supérieur. Les nouveaux paragraphes 17 (49.1) à (49.12) prévoient des règles concernant les pouvoirs du Tribunal en ce qui a trait à ces appels. Le pouvoir du Tribunal de permettre l'interjection de tels appels est limité. Toutefois, s'il est permis d'interjeter appel, il est donné à la municipalité l'occasion de prendre une nouvelle décision. Si la nouvelle décision fait l'objet d'un appel et que le Tribunal détermine de nouveau qu'elle ne satisfait pas à la nouvelle norme de contrôle, celui-ci prend une autre décision. Des règles spéciales sont prévues dans certaines circonstances lorsqu'un plan révisé est présenté au Tribunal sans le consentement des parties précisées. Des modifications semblables sont apportées à l'article 22 à l'égard des appels portant sur le refus ou le défaut de prendre une décision concernant des demandes de modification de plans officiels, et à l'article 34 à l'égard des appels qui concernent les règlements municipaux de zonage. Dans le cas des appels portant sur le refus ou le défaut de prendre une décision concernant des demandes de modification de plans officiels, le nouveau paragraphe 34 (26.13) prévoit que ces appels ne doivent pas être rejetés en se fondant sur le paragraphe 24 (4) existant de la Loi. Certaines règles à l'article 17, telles qu'elles existaient avant leur modification par l'annexe, sont incorporées par renvoi à l'article 28 aux fins des processus, y compris le processus d'appel, qui ont trait aux plans d'améliorations communautaires. De même, certaines règles à l'article 34, telles qu'elles existaient avant leur modification par l'annexe, sont incorporées par renvoi aux articles 38 et 45 aux fins des processus, y compris le processus d'appel, qui ont trait aux règlements municipaux de restriction provisoire et aux règlements municipaux qui établissent les critères pour les dérogations mineures.

À l'heure actuelle, les paragraphes 17 (51), 22 (11.1) et 34 (27) de la *Loi sur l'aménagement du territoire* autorisent le ministre à aviser la Commission des affaires municipales de l'Ontario qu'un plan officiel ou une question de zonage qui fait l'objet d'un appel devant la Commission porte ou portera vraisemblablement atteinte à une question d'intérêt provincial. Lorsque le ministre avise ainsi la Commission, la décision de cette dernière n'est définitive que si elle est confirmée par le lieutenant-gouverneur en conseil. Actuellement, le ministre doit aviser la Commission au plus tard 30 jours avant l'audience de la question. Des modifications sont apportées pour exiger que le ministre avise le Tribunal d'appel de l'aménagement

local au plus tard 30 jours après le jour où le Tribunal donne un avis d'audience. Lorsque le Tribunal est ainsi avisé par le ministre, les nouvelles restrictions aux pouvoirs du Tribunal en cas d'appel, mentionnées ci-haut, ne s'appliquent pas. Toutefois, la décision du Tribunal n'est définitive que si elle est confirmée par le lieutenant-gouverneur en conseil.

Les nouveaux paragraphes 17 (36.5) et 21 (3) de la *Loi sur l'aménagement du territoire* prévoient qu'il ne peut être interjeté appel à l'égard d'un plan officiel ou d'une modification d'un plan officiel adoptée conformément à l'article 26 si l'autorité approbatrice est le ministre.

Dans le cas où aucune personne ni aucun organisme public n'a le droit d'interjeter appel à l'égard d'une décision concernant un plan officiel, les nouveaux paragraphes 17 (27.1) et (38.1) prévoient que le plan entre en vigueur le lendemain du jour de son adoption.

Les délais prévus pour la prise de décisions concernant les plans officiels et les règlements municipaux de zonage sont prorogés de 30 jours (voir les modifications apportées aux articles 17, 22, 34 et 36 de la *Loi sur l'aménagement du territoire*). Ce délai est porté à 210 jours pour les demandes de modification de règlements municipaux de zonage présentées concurremment avec les demandes de modification des plans officiels d'une municipalité locale (voir le paragraphe 34 (11.0.0.1)).

Le nouveau paragraphe 22 (2.1.1) de la *Loi sur l'aménagement du territoire* prévoit que pendant la période de deux ans qui suit l'adoption d'un nouveau plan secondaire, les demandes de modification du plan ne sont permises qu'avec l'approbation du conseil. Le paragraphe 22 (2.1.2) décrit le plan secondaire comme étant une partie du plan officiel, ajoutée par voie de modification, qui prévoit des politiques plus détaillées et des désignations d'utilisation du sol qui s'appliquent à une partie d'une municipalité.

Actuellement, le paragraphe 22 (11) de la *Loi sur l'aménagement du territoire* incorpore par renvoi diverses règles de l'article 17 concernant les appels interjetés devant la Commission des affaires municipales de l'Ontario. Des modifications sont apportées pour supprimer l'incorporation par renvoi et ajouter ces règles par le biais des nouveaux paragraphes 22 (11) à (11.0.7), avec les changements correspondants qui sont apportés aux règles à l'article 17.

À l'heure actuelle, le paragraphe 38 (4) de la *Loi sur l'aménagement du territoire* prévoit que quiconque reçoit un avis d'adoption d'un règlement municipal d'interdiction provisoire peut interjeter appel du règlement dans les 60 jours qui suivent son adoption. Des modifications sont apportées pour que le ministre soit le seul à pouvoir interjeter appel de ce règlement lors de son adoption initiale. Toute personne ou tout organisme public qui reçoit un avis de prorogation du règlement municipal peut interjeter appel de la prorogation.

L'article 41 de la *Loi sur l'aménagement du territoire* est modifié pour apporter des modifications de forme aux appels interjetés devant le Tribunal concernant la réglementation du plan d'implantation, notamment l'exigence voulant que le secrétaire transmette des choses précisées peu de temps après le dépôt de l'avis d'appel.

Le paragraphe 41 (16) de la *Loi sur l'aménagement du territoire* prévoit actuellement que l'article 41, à l'exclusion de certains paragraphes, ne s'applique pas à la cité de Toronto. Ce paragraphe est modifié pour supprimer les renvois aux paragraphes exclus. L'article 114 de la *Loi de 2006 sur la cité de Toronto* est modifié pour tenir compte des règles qui étaient énoncées dans les paragraphes exclus.

En vertu de l'article 47 actuel de la *Loi sur l'aménagement du territoire*, le ministre peut, par arrêté, exercer des pouvoirs en matière de zonage ou déclarer que des plans de lotissement sont réputés ne pas être enregistrés pour l'application de l'article 50. Les règles régissant les modifications et les révocations de ces arrêtés sont modifiées. Le ministre peut renvoyer au Tribunal d'appel de l'aménagement local une demande de modification ou de révocation d'un arrêté qu'il reçoit d'une personne ou d'un organisme public. Si le Tribunal tient une audience, il doit faire une recommandation écrite au ministre. Le ministre peut décider de modifier ou de révoquer l'arrêté, et il doit transmettre une copie de sa décision aux personnes précisées. Une nouvelle règle prévoit également que le promoteur d'une entreprise ne peut pas donner d'avis en vertu de la *Loi sur la jonction des audiences* à l'égard d'une demande de modification d'un arrêté du ministre que si le ministre a renvoyé la question au Tribunal. Une règle semblable est ajoutée à l'article 6 de la *Loi de 1994 sur la planification et l'aménagement du territoire de l'Ontario*, qui régit le processus de modification des plans d'aménagement.

À l'heure actuelle, le paragraphe 51 (52.4) de la *Loi sur l'aménagement du territoire* permet à la Commission des affaires municipales de l'Ontario de déterminer si les renseignements et les documents présentés lors de l'audition de certains appels ayant trait aux plans de lotissement mais qui n'ont pas été fournis à l'autorité approbatrice auraient pu avoir une incidence importante sur la décision de l'autorité approbatrice. Si elle détermine que tel est le cas, la Commission est tenue de donner à l'autorité approbatrice l'occasion de réexaminer sa décision. Ce paragraphe est abrogé et remplacé de manière à empêcher que soient admis en preuve les renseignements et les documents qui n'ont pas été fournis en première instance à l'autorité approbatrice si celle-ci demande que lui soit donnée l'occasion de réexaminer sa décision et de faire une recommandation écrite.

Le nouvel article 70.8 de la *Loi sur l'aménagement du territoire* autorise le ministre à prévoir, par règlement, des questions de transition. Le paragraphe 70.8 (3) énonce des pouvoirs réglementaires additionnels qui s'appliquent lorsqu'un règlement de transition prévoit qu'une affaire ou une procédure doit être poursuivie et réglée conformément à la Loi, telle qu'elle existait à la date d'effet, au sens des règlements, lorsqu'un avis d'appel est déposé après le jour où le projet de loi reçoit la

sanction royale, mais avant la date d'effet. Les paragraphes 70.8 (6) à (12) contiennent diverses dispositions portant sur l'immunité à l'égard de tout ce qui est fait en application de l'article 70.8.

Diverses modifications de forme sont également apportées à *Loi sur l'aménagement du territoire*.

ANNEXE 4 MODIFICATIONS DE LA LOI SUR LES OFFICES DE PROTECTION DE LA NATURE

L'annexe apporte de nombreuses modifications à la *Loi sur les offices de protection de la nature*. Outre les nombreuses modifications d'ordre administratif, l'annexe apporte les modifications importantes détaillées ci-après.

Une nouvelle disposition portant sur l'objet de la Loi est ajoutée (article 0.1).

Diverses modifications sont apportées relativement à l'expansion de la zone de compétence d'un office, à la fusion de deux offices ou plus et à la dissolution d'un office (articles 10, 11 et 13.1), y compris des modifications relatives à l'avis qui est exigé avant que certains de ces changements aient lieu. De plus, les modifications apportées à l'article 11 exigent l'approbation du ministre préalablement à la fusion de deux offices ou plus.

Des modifications sont apportées relativement à l'adhésion et à la gouvernance des offices (articles 14 à 19.1). Les règles portant sur la nomination et le mandat des membres d'un office sont clarifiées. La durée maximale du mandat d'un membre passe de trois à quatre ans. Une exigence voulant que les assemblées tenues par l'office soient publiques est ajoutée, sous réserve des exceptions prévues par les règlements administratifs de l'office. Les offices sont tenus de créer des conseils consultatifs conformément aux règlements. Un nouvel article 19.1 est édicté pour énoncer le pouvoir qu'a l'office d'adopter des règlements administratifs concernant sa gouvernance, y compris ses assemblées, ses employés, ses dirigeants et son comité de direction. Plusieurs de ces pouvoirs étaient auparavant des pouvoirs réglementaires accordés aux offices en vertu de l'article 30 de la Loi. Le ministre peut ordonner à un office d'adopter ou de modifier un règlement administratif dans un délai déterminé. Si l'office n'obtempère pas, le ministre peut prendre un règlement ayant les mêmes effets que ceux que le règlement administratif devait avoir.

Des modifications sont apportées à la mission, aux pouvoirs et aux fonctions des offices (articles 20 à 27.1), en particulier aux pouvoirs liés aux programmes et services et liés aux projets qu'ils entreprennent. Le nouvel article 21.1 énonce les trois types de programmes et services qu'un office doit ou peut fournir : les programmes et services obligatoires exigés par règlement, les programmes et services municipaux qu'il fournit au nom des municipalités, et d'autres programmes et services que l'office détermine comme étant souhaitables pour poursuivre sa mission. Le nouvel article 21.2 énonce les règles selon lesquelles un office peut exiger des droits pour les programmes et services qu'il fournit et les modalités de calcul des droits. Les offices sont tenus de tenir à jour un barème de droits qui indique les programmes et services pour lesquels ils exigent des droits et le montant de ces droits. Le barème de droits est énoncé dans une politique écrite mise à la disposition du public. Les personnes à qui l'office demande de payer des droits peuvent demander à l'office d'en réexaminer le bien-fondé et le montant. Les articles 24 à 27 de la Loi sont abrogés et remplacés par de nouveaux articles autorisant les offices à recouvrer leurs coûts en immobilisations pour des projets qu'ils entreprennent et les dépenses d'exploitation auprès de leurs municipalités participantes. À l'heure actuelle, la répartition de ces coûts et de ces dépenses est calculée selon les avantages que chacune des municipalités participantes reçoit d'un projet ou d'un office. Les modifications prévoient que la répartition soit effectuée conformément aux règlements.

Les dispositions réglementant des activités qui peuvent être exercées dans des zones sur lesquelles des offices exercent leur compétence sont modifiées de façon substantielle (articles 28 et 29). L'article 28 de la Loi est abrogé. À l'heure actuelle, cet article accorde aux offices certains pouvoirs réglementaires, notamment le pouvoir de réglementer le redressement, le changement ou la déviation de cours d'eau et les aménagements dans leur zone de compétence et d'interdire ces activités ou d'exiger l'autorisation de l'office pour celles-ci. Ces activités étant interdites en application de l'article 28 réédité, les pouvoirs réglementaires précédemment octroyés n'ont plus lieu d'être. De plus, le nouvel article 28.1 accorde également aux offices le pouvoir de délivrer des permis qui autorisent leurs titulaires à exercer les activités interdites. L'article 28.3 permet aux offices d'annuler des permis dans des circonstances déterminées. De nouveaux pouvoirs réglementaires sont énoncés à l'article 28.5 à l'égard d'activités qui ont une incidence sur la protection, la régénération, la mise en valeur ou la gestion des richesses naturelles.

Les articles 30 et 30.1 sont abrogés et les articles 30.1 à 30.7 sont édictés relativement à l'exécution de la Loi et aux infractions. Les offices sont investis du pouvoir de nommer des agents qui peuvent entrer sur un bien-fonds pour assurer la conformité à la Loi, aux règlements et aux conditions dont est assorti un permis. Les agents se voient également conférer le pouvoir de donner des ordres de suspension dans des circonstances déterminées. Les infractions en cas de contravention à la Loi, aux règlements, aux conditions dont est assorti un permis et aux ordres de suspension sont énoncées à l'article 30.6 et les amendes maximales prévues par la Loi passent de 10 000 \$ à 50 000 \$ dans le cas d'un particulier. Dans le cas d'une personne morale, l'amende maximale passe à 1 000 000 \$. Une amende supplémentaire de 10 000 \$ pour un particulier ou de 200 000 \$ pour une personne morale peut être imposée pour chaque journée pendant laquelle l'infraction se poursuit après la déclaration de culpabilité. L'article 30.7 élargit les pouvoirs existants du tribunal lorsqu'il ordonne aux personnes déclarées coupables d'une infraction de réparer les dommages qui résultent de la commission de l'infraction ou de réhabiliter ce qui a été ainsi endommagé.

Divers pouvoirs réglementaires sont créés.

ANNEXE 5**MODIFICATIONS CORRÉLATIVES APPORTÉES À DIVERSES LOIS DÉCOULANT DE L'ÉDICTION DE LA LOI
DE 2017 SUR LE TRIBUNAL D'APPEL DE L'AMÉNAGEMENT LOCAL**

Des modifications corrélatives sont apportées à diverses lois afin de remplacer les mentions de la *Loi sur la Commission des affaires municipales de l'Ontario* et de la Commission des affaires municipales de l'Ontario par des mentions de la *Loi de 2017 sur le Tribunal d'appel de l'aménagement local* et du Tribunal d'appel de l'aménagement local, respectivement.

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